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ABSTRACT

This history of bilingual education in the United States begins with the advent of the Spanish in the early 16th century, and traces the development of the phenomenon to the present. Chapters cover (1) early immigration of Spanish and Germans before the Revolution, (2) early 19th century xenophobia, (3) bilingual schooling in the early 19th century, (4) bilingual education's decline in the late 19th and early 20th centuries, (5) the Puerto Rican influx in the mid-20th century, (6) the rise and failure of instruction in English as a second language (ESL), (7) the 1960s renaissance of bilingual education, (8) the federal bilingual act (Title VII of the Elementary and Secondary Education Act of 1965) and its implementation, (9) the ethnic awareness movement of the mid-1970's, (10) the peak of the bilingual movement, and (11) the aftermath of the Lau v. Nichols ruling. Also included are chapters on (1) variations on the bilingual concept, (2) a comparison of concepts of bilingual education and school desegregation, (3) the status of bilingual education in the bicentennial year, (4) program evaluation efforts and results, (5) denial of educational services to undocumented immigrants and challenges to Lau remedies, (6) issues of accountability, (7) foreign language deficiencies and linguistic chauvinism in American society, (8) the increasing need for bilingual instruction due to immigrant influx and other needy language minorities, (9) the 1979 proposed Lau regulations, (10) the recent shrinkage of the federal role in education, (11) headline immigrant language issues, (12) jeopardy to some individual rights, and (13) some projections and suggestions. (MSE)

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The Best of Two Worlds

Bilingual-Bicultural Education in the U.S.

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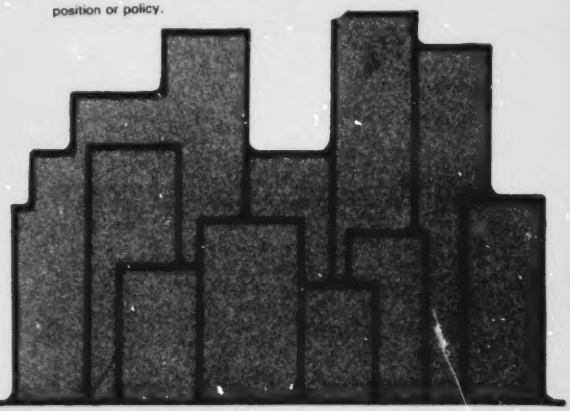

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Diego Castellanos

The Best of Two Worlds

Bilingual-Bicultural Education in the U.S.

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Brief "Primer" On Bilingual Instruction

The following simplified explanation is offered in an effort to orient readers who are unfamiliar with the bilingual approach.

Definition

The definition of bilingual education can be as simple or as complex as anyone wants to make it. Essentially, the term means instruction in two languages. However, as normally used in the United States, bilingual education is a method of instruction by which students who are not proficient in the language of the land where they live (1) are taught all subject matter (the school's curriculum) in their native language, and at the same time (2) are taught the language of the land (their adopted home) as a second language.

Example

Suppose a group of students moves from Puerto Rico (where the language of the land is Spanish) to New Jersey (where the language is English). If they expect to make New Jersey their permanent home, it is important that they learn English to enable them to compete academically, economically, socially, and politically in their new environment. However, it takes some time (from several months to several years—depending on many circumstances) for people to become proficient in a second language. (Not simply able to hold uncomplicated social conversations, but to function, to create, to debate, to compute, and to solve problems without the handicap of a limited vocabulary and syntax.)

During the period of time that it takes to learn the new language (which may average three years) the students could be learning other subjects (such as math, science, and history) in their native language (which they already know). They do not have to postpone learning basic skills until they master English. (The bilingual approach, of course, is used for speakers of any language.)

Rationale

In a bilingual program, students continue their basic education while they learn English, so they do not fall behind academically. When they are able to master English, they can be mainstreamed into the regular curriculum without having missed any of their education. And they will have the advantage of being bilingual.

Transitional Model

The program just described would be called a *transitional* model of bilingual instruction because it is used to help students make a smooth transition from instruction in Spanish to instruction in English. This type of program terminates when the students are transferred to the regular school program. Therefore, it is sometimes referred to as a "terminal" program.

Maintenance Model

If the school district were interested in maintaining the students' native language and culture, the district would continue to provide bilingual instruction to them even after they show proficiency in English. This model is known as *maintenance* bilingual instruction.

One Way Approach

If the bilingual program is intended only for students of limited English proficiency (LEP), it is called a *one way* program because it serves to convert LEP students into bilingual students but it does not affect the native English-speaking student population. In this regard, bilingual instruction is used as a remedial or compensatory program.

Two Way Approach

However, bilingual education need not be limited to students who need to learn English. While Puerto Rican students learn English as a second language and study about U.S. history and culture, Anglo-American students could be learning Spanish (as a foreign language) and studying the history and culture of Puerto Rico. Bilingual education in this case serves as an enrichment program for the Anglo children. Once the Anglo students become proficient in Spanish, some simple subjects can be taught in that language. (Their core subjects would still be taught in English, of course.) This approach is known as a *two way* program because there are two groups, each learning the other's language and culture. The result is that both groups eventually become bilingual and able to function in either culture.

About the Author

Diego Castellanos was a straight A student in his native Puerto Rico until his family migrated to New Jersey in the late 1940s. As a youngster with a limited English proficiency attending U.S. Mainland schools at a time when there were no special services for such students, Castellanos personally lived through the "sink or swim" experiences he describes in this book. He was—for a while—placed in a class for the learning disabled.

Intense perserverance and "a few lucky breaks here and there" (his words) helped him overcome not only the language barrier but other handicaps faced by his generation of Latinos and to emerge as a respected member of his community and of his profession. He has received numerous awards for service to his community—including a Presidential commendation, the Jaycee's Distinguished Service Award to the "outstanding young man of the year," and many others. He is quick and earnest, however, to caution readers not to misinterpret the exceptional achievements of a few fortunate individuals as supportive of the notion that linguistic minorities collectively have fared all right in American schools.

Dr. Castellanos has been involved in bilingual education since the enactment of the Federal Bilingual Education Act in 1968 and served as State Director of Bilingual Education in the New Jersey Department of Education from 1970 to 1975, during which time he was instrumental in drafting legislation to mandate bilingual instruction in New Jersey. After that law went into effect, Castellanos transferred to the Department's Office of Equal Educational Opportunity, where he directs three desegregation projects funded by the 1964 Civil Rights Act. Having worked in both fields—bilingual education and school desegregation—he is very sensitive to the apparent incongruencies between these two strategies. He has introduced the concept of tri-ethnic desegregation in New Jersey schools.

Castellanos has taught graduate courses on foundations of bilingual education in New Jersey state colleges and he was part of an early-seventies international bilingual project, which looked at bilingual instruction in European countries.

He has authored or co-authored several other publications, including *Puerto Ricans on the United States Mainland* and *Teaching Ethnic Studies: Concepts and Strategies*. He also wrote *The Hispanic Experience in New Jersey Schools* and *Is Bilingual Education Failing in New Jersey?* (his master's thesis for Montclair State College) in 1973. His 1979 doctoral dissertation (at Fairleigh Dickinson University) dealt with the history of bilingual education in New Jersey. As a former journalist, his credits for newspaper and magazine articles are far too numerous to list.

Those in the tri-state Delaware Valley area are likely to recognize Diego Castellanos as the host of *Fuerto Rican Panorama*, a television series seen weekly on the Philadelphia ABC affiliate station since 1970. He also serves on the National Bilingual Advisory Board of the Children's Television Workshop, the producers of *Sesame Street*.

Preface

I STARTED OUT to write the history of bilingual education in the United States and discovered in the process that the history of bilingual education *was* the history of the United States. That paraphrase of an Oscar Handlin quote (from his book, *The Uprooted)* sums up the manner in which this book evolved.

It is a matter of demographic record that more than fifty million immigrants[1] from around the globe have enriched the U.S. population since the birth of the nation. It is a matter of historical reality that many thousands came from dozens of countries during what could be poetically called the nation's "period of gestation."[2] Thus the United States was born as a multicultural polyglot and continues to this day to be a microcosm of the world.

Perhaps because of this phenomenon, the nation's "founding fathers" deemed it necessary to enforce a strict single-language policy, lest the linguistic diversity would lead to another Tower of Babel. Although one can easily see the logic in this, it may have made more sense if the individual immigrant languages had been retained by those who spoke them—and passed on to their offspring—while at the same time they acquired the unifying lingua franca. Thus all individuals would have been bilingual, speaking both English (as a language of wider communication) and their respective mother tongues.

This retrospective observation essentially reflects the rationale behind bilingualism today: that the shortcomings of the past not be recycled and, thus, perpetuated. Spanish philosopher George Santayana put it succinctly: "Those who cannot remember the past are condemned to repeat it."

The purpose of this book is to provide a historical perspective for the study of bilingual education in the United States. No specific conclusion is drawn by the author; none was intended. The objective was basically to chronicle and group together under one cover the most significant events, forces, and other factors that led to the bilingual education controversy of the 1970s, shape the bilingual philosophy today, and have implications for the future of the movement. If the sensitivity derived from understanding these dynamics leads to an open-minded examination of the bilingual methodology—by both, its proponents and opponents—and if this in turn leads to the formulation of educationally-sound programs for students in the United States, this publication will have served its purpose.

While no claim of a balanced view can honestly be made by the author, who is an admitted supporter of bilingual instruction, an equally honest effort has been made to report data that is clearly unfavorable to the bilingual movement as well as to keep editorial comments and advocacy rhetoric to a minimum in the interest of accuracy.

This is essentially a history book, not a reference book, manual, or a "recipe" book. Thus the reader will *not* find all related items neatly categorized on the same page or a listing of specific data per se. Rather, an effort has been made to keep information flowing in

a chronological perspective so as to dramatize the impact of the past events upon the developing future.

For the sake of flow and manageability, some generalizations had to be made and some events deemed important by the reader may have been omitted or treated inadequately. Interested persons can, obviously, research these specific data so as to satisfy their individual curiosity or need for a particular piece of information. The reader should, in fact, check out all data before using it for critical purposes. This is especially true of laws (which change with the political winds) and of precedent-setting court decisions (which are sometimes overturned). One of the most frustrating and time-consuming aspects encountered in the research for this project was the myriad of contradictions found in the "body of knowledge." The literature is replete with erroneous data, and a great deal of important (or interesting) information had to be discarded because of incredible discrepancies. Incidentally, if veterans of the bilingual education arena find that none of the statements in this book are freshly-minted, it would simply confirm that the narrative is a true reflection of their own efforts over the years. Hopefully, the reminiscing will prove to be a valuable experience.

Many people assisted me in the preparation of this document in a variety of ways. To acknowledge them all would probably occupy the better portion of this publication and, worse, would place the author in the untenable position of running the risk of inadvertent omissions. Those who were consulted, provided input, or helped in so many other ways to realize this project know they have my most sincere appreciation.

One person, however, contributed enough time, effort, and support to this document as to rightfully deserve equal billing as a co-author. Without the unselfish help of **Pamela J. Leggio,** a knowledgeable bilingual educator in her own right, this book would have never been published.

The author respectfully salutes the thousands of other bilingual educators and advocates in the United States to whom this modest effort is dedicated —to them and to the millions of bilingual and limited English-proficient children in American schools. May they be permitted to enjoy **the best of two worlds.**

DIEGO CASTELLANOS, Ed.D.

1 A Polyglot Nation

IN THE BEGINNING the Western Hemisphere offered its bounty to the brave, the strong, the curious, and the lucky—whatever their national origin, social status, or motivation for coming here. Willing pioneers came from Spain, France, England, and other countries of the world. Scientific scholars believe the first Americans simply wandered in from Asia, crossing the Bering Strait from Siberia to Alaska. Although these prehistoric nomads preceded the Europeans by some fifty thousand years, they—the ancestors of the "native" Americans—had been migrants nonetheless. It is believed that at the time of the first European arrivals (the Spaniards) there were more than a million natives living in (what is today) the contiguous United States.

They had spread out over their new continent and formed new nations representing various language groups: Apache, Navajo, and others in the southwestern deserts; the Kickapoo and others in central prairies; the Cheyenne, Pawnee, Crow, and others in the northern plains; the Comanche and others in the southern plains; the Washo and others in the Great Basin; the Natchez, Arawak, and others along the Gulf Coast; the Taino, Carib, and others in the Caribbean Basin; the Chickasaw, Choctaw; Cherokee, Creek, Shawnee, and others in the southeastern woodlands; the Lenni Lenape along the mideastern seaboard; the Mohegan, Ottawa, Cayuga, Mohawk, Delaware, Seneca, and others in the northeastern woodlands; and other nations or tribes in other parts of the country—all having their own peculiar rituals, culture, and language or dialect. Prior to the arrival of the Europeans, more than five hundred languages were spoken in North America.[3]

THE SPANISH

The first part of (what is today) the United States to be settled by Europeans was Puerto Rico. The island was colonized by Juan Ponce De León in 1508, fifteen years after it had been visited by Christopher Columbus. After serving as Puerto Rico's first governor, Ponce De León migrated toward the North American continent, reaching its southern peninsula in 1513. He explored the area, named it Florida, resettled there, and became its first governor. The lands discovered by Ponce De León and Juan de Garay were given in 1527 to Pánfilo de Narváez by the King of Spain.

Ponce De León was followed by Alonso de Pineda, who reached the mouth of the Mississippi River in 1519. The Spanish established

a colony (which did not survive) in the Carolinas in 1526—sixty years before Sir Walter Raleigh made a similar unsuccessful attempt. Around 1529, when he was governor of Florida, Narváez visited Louisiana with Alvar Núñez Cabeza de Vaca. In 1536, Hernando Cortés visited California and Cabeza de Vaca explored Texas. In 1539 Hernando De Soto, former governor of Cuba, landed in Florida, and Francisco de Ulloa explored the California coast. The following year De Soto visited Georgia and Tennessee, García López de Cárdenas discovered the Grand Canyon of Colorado, Gen. Francisco Vásquez de Coronado explored New Mexico and Kansas, and Hernando Alarcón discovered the Colorado River. In 1541, De Soto discovered the Mississippi River near Memphis. The following year—twenty years before French colonizers reached the New World—Juan Rodríguez Cabrillo, a Portuguese, became the first European to set foot on the Pacific Coast by the San Diego harbor.

The first permanent European settlement in this continent was Spanish-speaking—St. Augustine—established in 1565 by Pedro Menéndez de Aviles (later governor of Florida) on a site where French Huguenots had failed two years earlier. (The colony remained Spanish for more than two and a half centuries.) In 1566 the colony of Santa Elena was founded at the site of today's Parris Island Marine Base in South Carolina. The settlement, which lasted 21 years, had sixty houses and reached a population of four hundred. It served as the capital of Spanish Florida.[4] In 1573 Pedro Márquez discovered the Chesapeake Bay and in 1582—five years before the first attempt to establish an English colony there (which failed)—Antonio de Espejo explored (and named) New Mexico. Sixteen years later Juan de Oñate led four hundred soldiers and their cattle into New Mexico and settled in the territory.

Spaniards held a virtual monopoly over the southern half of this country for one entire century before the arrival of other Europeans. They conducted extensive explorations, discovering and naming many of our national landmarks, and spreading the gospel among the natives. Jesuits accompanying these pioneers used the autochthonous dialects of Florida, as well as Spanish, to teach Christianity to the natives. A similar bilingual approach was used by Franciscan missionaries in the Southwest and by Dominicans elsewhere.

Spain's domain on the Western Hemisphere between the early sixteenth and nineteenth centuries extended southward to include Mexico, all of Central and South America (except Brazil) and most of the Caribbean islands. Unlike the other Europeans who followed them later, however, the Spanish as a whole seemed to have no interest in settling in the North permanently. Rather, they seemed interested in evangelizing the natives or in exploiting the land's natural riches and returning home wealthy. Also unlike the other Europeans, Spanish conquerors were not likely to be accompanied by their families. This factor proved to be not only a deterrent to the establishment of permanent settlements, but it conduced them to constant mating with native women, thus engendering gener-

ations of racially-mixed offspring.

It seemed possible during the sixteenth century that Spanish would become not only the language of the Western Hemisphere but of the entire world. That possibility was terminated by the defeat of the Spanish Armada by the British in 1588 as well as further Spanish defeats by the French, who in the mid-seventeenth century became the leading power in Europe.

THE COLONIAL PERIOD

The French came to the New World in 1534 and by the end of the sixteenth century France had established colonies in the St. Lawrence Valley, the region around Lake Superior, and the northern part of the Ohio Valley. In 1605, they settled Acadia, off the coast of Canada. Not until 1607—115 years after Columbus' first voyage—did the first permanent English colony in the New World appear in Jamestown, Virginia. A dozen years later West Africans were brought to Jamestown as indentured servants.

In 1620, another permanent colony was founded in Plymouth, Massachusetts by a group of pilgrims. These early settlers were determined to forge an ideal new nation—a refuge of freedom, justice, tolerance, and equality—for themselves. They were not willing, it turned out, to extend these same franchises to others; not even to those who were here before them, least of all to those who were brought here against their will. Those who disagreed with Puritan beliefs and practices, for example, were persecuted or banished from their colonies. Witch hunts often resulted in executions without trials. The seeds of intolerance and discrimination, it appears, were simply transplanted to—and evidently took root in—the New World.

The first group of permanent Dutch settlers came to "New Netherlands" (New York) in 1624, when their country was still under Spanish rule. Two years later Peter Minuit purchased Manhattan Island from the Natives. Spanish-Portuguese Jews (the Sephardim) arrived around the mid-seventeenth century. Meanwhile, Huguenots were settling in Charleston, South Carolina.

Minuit brought a shipload of Finns and Swedes to the Delaware River Valley in 1638. In 1682 William Penn, a Quaker, came to the Delaware Valley and in October of the following year, the ship Concord brought thirteen Quaker and Mennonite families from the German town of Krefeld to Philadelphia. Led by Fritz Daniel Pastorius, a thirty-year-old lawyer from Franconia, they founded the community of Germantown.

The Spaniards were settling the southern portion of the North American continent (as well as Central and South America), so these territories were becoming known as *Latin America* because Spanish (a Latin language) was spoken there. The northern region of North America had become essentially *Franco American* because it was occupied by the French. (This is the region that eventually became Canada.)

The area between Franco and Latin America was being dotted

with groups from nations who spoke different languages, professed different forms of worship, and practiced different lifestyles. However, it became obvious very early that the British would be the dominant nationality and that English would be the predominant language in this central portion of North America (destined to become the United States). This early *Anglo American* matrix prevailed to the extent that immigrants from other national origins were compelled to conform to it.

Because of the many nationalities represented in Anglo America, as well as the many Indian nations that existed here, knowledge of two or more languages became a decided advantage for trading, scouting, teaching, and spreading the gospel, as well as for diplomacy. Anthony Sadowski, a Pole who came to America in the first decade of the eighteenth century, became one of many interpreters of Indian languages. Linguists performed other essential functions as some schools, churches, and other institutions offered bilingual services. The Protestant missionary schools established by these Northwestern European settlers to "introduce Indians to civilization and Christianity" were—of necessity—also bilingual.

While the efforts of missionaries to maintain the native tongue of the aborigenes were not encouraged, they were tolerated by the powers-that-be, who would not openly interfere with Church affairs. A notable exception to this leniency was made in the case of West African slaves, whose languages at the time of their arrival here were so brutally suppressed that none survived. Evidently, since the Black slaves were considered less than human, denying them their languages and culture gave no offense to Christian ethics.[5]

The idea of importing Africans for the purpose of slavery had been suggested in 1517 by Fr. Bartolomé de las Casas, who had witnessed this practice while in Santo Domingo. The priest made the suggestion in an effort to spare the Indians from slavery, for prolonged exposure to Europeans seemed hazardous to the Natives, who had not yet developed immunity to the diseases brought over from Europe. Apparently, it was believed that Africans, who hailed from the Eastern Hemisphere, would be immune to Old World illnesses. Another deterrent to the enslavement of Indians was the fact that they had just been declared "descendants of Adam and Eve" by Pope Julius II in 1512. (Presumably, Blacks were still nonentities.) Although Fr. de las Casas immediately regretted having suggested it, the idea caught on and was implemented by the British one hundred years later with the assistance of Portuguese navigators.[6] More than 200,000 Africans were brought to America as slaves during the eighteenth century.

It is important to know, however, that Blacks were not the only unfree servants during the Colonial Period. Many Europeans paid the cost of passage to America for themselves and their families by legally binding themselves to servitude. Others came to perform forced labor as an alternative to serving jail terms for crimes committed in England. Some families sold their children as servants. Of course, these agreements were made voluntarily and the period

of indenture usually lasted only seven years or, in the case of convicts, for the remainder of their sentences, after which they were free. Blacks, on the other hand, served for life and passed on the legacy of slavery to their children.

Immigrants from almost every northern and western European nation continued to arrive in the Americas during the seventeenth century. The immigration traffic was so diverse that eighteen different languages were being spoken by people of twenty different nationalities—including Portuguese Jews—in New Netherland (Manhattan Island) in 1664 when it was captured from the Dutch by the English.[7] People from these nations continued to immigrate for the next two centuries and to alter the environment to suit their needs—much to the dismay of the native inhabitants of the land.

By 1763 England had succeeded in gaining total control over Franco America, thus ending a hundred years of French sovereignty in that area. This conquest began the process of Anglicizing the land that was to become Canada. Thus British expansion had now extended Anglo America to include the northern as well as the central region of North America. (The southern region of the continent, however, was still occupied by Latins—essentially Mexicans ruled by Spain.)

In the mid-eighteenth century, the British rulers of Nova Scotia expelled four thousand Acadians when they refused to pledge their loyalty to the British Empire. The outcasts ended up years later among their own compatriots at the mouth of the Mississippi River in Louisiana, where their descendants became known as the Cajuns. They settled in the bayou country of the Mississippi Delta and retained French as their primary language.

Around 1719 Scotch-Irish were coming to New York, New Jersey, and Pennsylvania (where they constituted one-fourth of the population). In 1736 Moravians came to Georgia and eventually remigrated to Pennsylvania. By the mid-eighteenth century, the Quakers constituted one-fifth of the population of Pennsylvania.

A great deal of conflict—having little to do with their linguistic differences—generated among the various nationalities occupying the New World. The Scotch-Irish, who seemed more inclined toward belligerence, and the Quakers, who were devoted to nonviolence, disagreed, for example, on issues such as Indian relations. The Scotch-Irish philosophy regarding all Indians as enemies extended even to Christianized Natives, such as the Moravian Indians (who had been converted by the Germans).

THE GERMANS

It was around this time that the Germans, the most important group in the early history of bilingual education, were coming to Anglo America. Germans followed the mountain valleys that led them southward into the back country of Maryland, Virginia, and the Carolinas. By the mid-eighteenth century they had settled north

to the Mohawk Valley in New York and east to the New England colonies.

They settled in the relatively unpopulated frontier areas of the country where they were generally unnoticed, although they were in the majority. This gave them a political and social advantage not available to other groups at that time. In these farming districts, the Germans initially had no teachers at their disposal who were familiar with English, but there was little need for a command of English[8] for either communicating with each other, raising their livestock, or harvesting their crops.[9] But the Germans had a keen interest in education as the vehicle of social mobility; it represented the means by which the child could climb higher than the parent.[10]

Their high regard for education, a strong desire to perpetuate their culture in the new land, and the relative unimportance of English in their early settlements—combined with the fact that they were unimpressed with Anglo American schooling—led the Germans to establish their own private parochial schools to inculcate the brand of education they had known in Germany and to preserve their language (the medium through which culture is transmitted) and ethnic traditions for their offspring.[11]

Something negative about their homeland (politics, economics, or whatever), coupled with faith in the potential of the New World for a better life, had prompted these people to emigrate. It would have been utterly simplistic, however, to believe that absolutely nothing from their old country was worth preserving in their new environment. By retaining those positive traits that had survived their long history, while being able to take advantage of the opportunities afforded by their adopted land, these immigrants were hoping to enjoy the best of two worlds—a rather reasonable expectation. More importantly, by bringing not docile minds, but centuries of experience in farming, architecture, arts, and science—as well as generations of cultural traditions, languages, and other venerable values—they were contributing immensely to the enrichment of their new land, so that all Americans would be the beneficiaries of the best of all worlds. That was the original ideal. The reality was different. An epidemic of ethnocentrism made it painfully difficult to reach consensus over what aspects of heritage could be salvaged and nurtured. We know today that languages other than English were not among the cultural manifestations allowed to survive in the new country.

In 1753, Benjamin Franklin feared that Germans would "endanger the preservation of our language unless English schools were established."[12] A systematic attempt to introduce English schools into the German-speaking areas of Pennsylvania was made by the London-based Society for the Propagation of Christian Knowledge, which maintained a number of bilingual schools among the Germans in Anglo America. The effort failed when local Germans became aware that the plan was ethnolingual in its aims—not religious, as the name of the society implied.[13]

Yet, remarkable privileges were granted to Germans in Penn-

sylvania during the eighteenth century, especially in the field of higher education. In 1741, the year after the University of Pennsylvania was founded, a chair of German was established there, which developed into a German school nine years later. Franklin and Marshall College in Lancaster was initially chartered as a bilingual interdenominational academy in 1787.

THE REVOLUTIONARY PERIOD

Germans constituted the most predominant non-English-speaking group during the Anglo American Revolutionary Period. There were approximately a quarter million Germans in the Colonies. Although they were distributed more uniformly throughout Anglo America than any other immigrant stock—and have tended to assimilate and Americanize since then—one-third of the nation's German population during the Revolution resided in Pennsylvania. There were smaller but significant German enclaves in each of the other twelve colonies as well as along the Mississippi River Valley and the Northwest Territory (including Iowa, Wisconsin, Alabama, Missouri, Louisiana, and Ohio).

Some of the other ethnic minorities in the United States at the time of its independence included large settlements of Scotch-Irish on the frontier (Virginia, Pennsylvania, and the Carolinas); Irish below the Mason-Dixon line; Scottish in North Carolina, New York, and Georgia; Dutch in Manhattan, Staten, and Long Islands, as well as along the banks of the Hudson River and on the coastlines of New Jersey and Connecticut; French in Maine and Charleston; Huguenots in Manhattan; French Catholics in Louisiana; Swedes in the Delaware Valley (Delaware, southeastern Pennsylvania, southern New Jersey and northern Maryland); Jews in Manhattan; small Jewish groups from Spain and Portugal in Rhode Island; Danes in New York; and Welsh in New England and Pennsylvania. The demographic registers circa 1776 officially listed the country's White population as 61 percent English, ten percent Irish (mostly from Ulster), nine percent German, eight percent Scottish, three percent Dutch, two percent French, one percent Swedish, and six percent other.[14]

Twenty percent of the total population of Anglo America was believed to be Black, most of whom lived in the South. There were, of course, many American Indian groups, some of whom had systems of government similar to those of the White establishment. The headquarters of Six Nations, a confederation of Iroquois Indian tribes, was located ten miles north of present-day Albany, where the Hudson and Mohawk rivers join. Some Native Americans were still migrating from place to place—not always voluntarily. Many Creeks escaping from Southern White raids were taking refuge—along with runaway slaves—in the swamps of Spanish Florida, where their descendants became known as the Seminoles.

By 1741 the Russians were exploring and settling Alaska. Some 43 years later, the first permanent Russian colony in North America

was established in Kodiak, the easternmost of the Aleutian Islands. It is quite obvious that this nation was born multilingual and multicultural, despite the equally indisputable fact that English was accepted as a lingua franca—although for a time even that was in doubt.

There are some reports that a movement was afoot during the Anglo American Revolution to replace English as the official language of the new nation. This is not entirely inconceivable, for many of the new Americans were bitter enough to root out all vestiges of British domination from the New World. Historians disagree on what languages were offered as substitutes. German, Hebrew, French, and Spanish have been mentioned most frequently.

German had the strongest appeal, for it resembled English more than the others, was the language spoken by most people here (other than English), could be easily learned by the Dutch, and was spoken by the thirty thousand Hessian mercenaries hired by England (five thousand of whom had deserted the British monarchy and twelve thousand of whom were staying in America at the urging of New Jersey and South Carolina). In any event, the Continental Congress, convened in Philadelphia during the Revolution, is reported to have chosen English over German as the official language of the new republic by just one vote.

Another account names Hebrew as the proposed official tongue. The rationale was that Hebrew was held in high regard as the mother of all languages, the key to the scriptures, and the cornerstone of a liberal education. After all, the colonists had named several of their towns after those cited in the Bible—Salem and Bethlehem—and some of their children were named after biblical figures. So, the story goes, several members of the new Congress reportedly urged that English be banned altogether and replaced by Hebrew. Though the idea never caught on, Hebrew remained a respected language and a required course at many major American universities well into the nineteenth century. (Annual commencement addresses, incidentally, at Harvard were delivered in Hebrew until 1817. And Yale required freshmen to take Hebrew, as did many lower schools.)[15]

THE NEW NATION

Just months after the Revolution was won, in 1782, French-American writer Michel-Guillaume-Jean de Crèvecoeur said of his adopted land: "Individuals of all nations are melted into a new race of men." This was probably the beginning of the melting pot ideal which was to become a dominant philosophy in America's history. Toward this end, English came to assume a greater importance, although non-English classes continued in many schools founded by immigrants.

In some schools English was taught as the main language while the native language was offered as a school subject and used for part of the instruction. The languages most frequently taught were Ger-

man, Dutch, Polish, and French. (Spanish was used exclusively in the Southwest, of course, but that area was not yet part of the United States.) The use of the Dutch language had never been entirely lost in the Middle Colonies. People not only conversed in Dutch but sermons in the Dutch Reformed Church were preached in Dutch up until the beginning of the nineteenth century.

The nation's early acceptance of the special needs of non-English-speaking minorities was evidenced by one of the acts of the Continental Congress (1774-79). The Congress provided for the publication in German of a number of legislative documents and official proclamations in order to make them accessible to the German-speaking minority. In addition, Federal laws were printed in French for the first time in 1806, and the Federal government later mandated that all laws applying to the Louisiana territory be printed in both English and French.[16]

During the eighteenth century the Lutheran and the Reformed churches built a comprehensive private elementary school system, which at times even received public funds. By the beginning of the Revolutionary War, 78 Reformed and 40 Lutheran parochial schools were thriving. The total number, in both denominations, increased to 254 by 1800.[17] These schools competed successfully with the public schools despite the fact that German parents had to pay both tuition fees and school taxes. As the number of Germans increased, however, public schools began to adjust their programs to the needs of these children. Instruction in several districts in Pennsylvania, Maryland, Virginia, the Carolinas, and Wisconsin was given in German—often to the exclusion of English. In one district in Wisconsin, one-third of the textbook funds were earmarked for German texts; in others, school boards could hire only German-speaking teachers. Even local district records were frequently kept in German.[18]

2 The Beginning of Xenophobia

GERMAN IMMIGRATION began to decrease after the Revolution. By the last decade of the nineteenth century, all immigration to the new nation had ebbed. At that time, immigrants made up one-third of the total U.S. population of approximately four million. In addition, an estimated 25,000 Spanish-speaking people were living in the northern portion of Mexico, which would later become the states of Arizona, California, New Mexico, and Texas.[19] During the thirty-year immigration hiatus, which lasted until the second decade of the nineteenth century, a series of laws regulating the census, naturalization, aliens, and immigration were enacted by the new Congress. Noting country of origin as well as numerical registry of newcomers, these acts enabled better compilation of statistics of subsequent immigrants. They also enabled American citizens to exercise prerogatives of not only limitation over the number of future immigrants but selectivity over their nationalities as well. Some of these restrictions were generated by fears of radical refugees from the French Revolution.

The new laws were supported by the immigrants who were already here, even by the recent arrivals and even when it meant restricting further immigration from their own native countries. The restrictive policies also enjoyed the support of the nation's founding fathers. George Washington, writing to John Adams in 1794, questioned the value of free immigration because immigrants "retain the language, habits and principles (good or bad) which they bring with them." Thomas Jefferson also dreaded mass immigration for fear that "the importation of foreigners" would lead to a sharing of political power wherein they would infuse legislation with a foreign spirit, warp and bias its directions, "and render it a heterogeneous, incoherent, distracted mass." This was a puzzling statement from a man who had displayed a great deal of interest in the languages of these "foreigners." In addition to Greek and Latin, Jefferson knew French, Italian, Spanish, and German.[20]

John Quincy Adams, another linguist, was even more blunt in 1818 when he wrote that if immigrants coming to the United States "cannot accommodate themselves to the character, moral, political and physical, of this country, with all its compensating balances of good and evil, the Atlantic is always open to them to return to the land of their nativity and their fathers."[21]

When full-force immigration resumed around 1820, the Irish

constituted the greatest number of new arrivals while the Germans continued as the largest non-English-speaking group immigrating. Others coming included Jews, Scandinavians, Ukrainians, Hungarians, Finns, Greeks, Estonians, Lithuanians, and Czechs. Around the time when Andrew Jackson was president, a group of exiles from an unsuccessful uprising in Poland came to the United States, bought some land in Illinois, and tried to establish a Polish colony. The attempt failed and members of the group moved to Chicago and became the nucleus of the Polish settlement in that city.[22]

Immigration increased steadily for a hundred years after the end of the Napoleonic wars. Aside from political upheavals (many came to escape the draft), other factors pushing people to emigrate included crop failures (and their concomitant famines and unemployment) and overpopulation. Some of the factors that attracted these immigrants to the United States included the vast amount of space, the chance to start a new life, and invitations or recruitment by Americans for needed workers. The voyage had been greatly simplified by the steamship line which had replaced the sailboat in the transatlantic immigrant trade, reducing the hazards of the journey and broadening the geographic origins from which one could embark.[23] Portuguese immigration, for example, began in 1830 as a result of a contract between New Bedford, MA and Portugal to recruit Azoreans as crewmen on whaling vessels.

THE MEXICANS

The borders of Hispanic territory in North America were definitively fixed around 1820, when the Mexican revolution put an end to Spanish control there and the United States purchased Florida from Spain. After Mexico's independence from Spain in 1821, the Mexican government invited Anglo-Americans to Texas, hoping they would transform into loyal Anglo-Mexicans and help protect that country against U.S. expansion.

To escape from the disadvantages of their Catholicism, many Irish immigrants from New York and Philadelphia accepted Mexico's invitation and migrated to the Texas area. In 1831 they established the settlement of San Patricio de Hibernia (St. Patrick of Ireland) south of San Antonio and west of Corpus Christi. The community thrived and, in fact, became the county seat.

Nonetheless, the vast majority of these as well as other immigrants from the United States, who outnumbered Mexicans six to one, resisted Mexicanization. Despite their religious affinity with the Mexicans, their racial and linguistic characteristics were much more compatible with those of Anglo America. A few Irish immigrants did assimilate into the Mexican mainstream. One of them—Miguel Barragán (Michael Berrigan)—became president of Mexico in 1835.[24] He served only until 1836, the same year Texas seceded from Mexico.

The United States annexed the Lone Star Republic as the State of Texas in 1845, thus converting 25,000 Mexicans into U.S.

citizens.[25] But citizenship did not dissolve the ethnocentrism that existed on both sides. Texans who were not of Mexican stock, for example, started to use the term "Anglo" to differentiate themselves from the Mexican-Americans. And the reluctance of Irish settlers to take up arms in defense of Texas during the Mexican-American War in 1848 caused angry Mexicans to burn down the town of San Patricio.

Without going anywhere, some ninety thousand Mexicans found themselves in the United States after their country lost the war of 1848. These and other Hispanics were becoming U.S. residents, not by following the traditional path of immigration, as Europeans were doing, but by the circumstances of annexation.

The lands that the Spaniards had occupied in North America and the Caribbean fell one by one to the United States during the nineteenth century. The only region of North America that remained Latin was southern Mexico. U.S. sovereignty, with its concomitant English language and Anglo culture, predominated the rest of North America—from Alaska (which had been purchased from Russia) to the Gulf of Mexico and the Rio Grande. Before the end of the century, the U.S. had expanded to include Puerto Rico, Hawaii, Guam, and the Philippines. Bilingual instruction, which had continued to flourish in the Southwest right up to the time of the annexation of that region, did survive the early efforts to eliminate it—although program implementation became sporadic at best.

U.S.-Hispanic relations were marked by mutual antagonism from the beginning. The Anglo-American colonists shared in the belief of a "black legend" about Spain—which portrayed that country as a fanatical, bloodthirsty, and tyrannical power--and inherited the sense of rivalry between Protestant Britain and Catholic Spain.[26] That rivalry was extended to the New World with the added issues of boundaries, Indian relations, and navigation rights. In addition, early Spanish conquerors in Latin America and Spanish colonists in the Antilles had mated with Indian women—and later with Black slaves—with proverbial abandon, thus engendering generations of half-breeds and mulattos, and incurring contempt from Anglo-America. The Spanish-speaking, therefore, were not among those selected for membership into the U.S. societal mainstream.

SELECTIVE ASSIMILATION

This is important since it appears that the initial acceptability of each minority group in this country had been a significant factor in how it was treated by the majority. Those who "qualified" had been co-opted into the society; those who did not, had been clearly excluded. As in any other organization, the chosen people had to subscribe to certain terms. In the United States, these included cultural conformity and linguistic assimilation with the dominant society which by now, incidentally, had assumed a monopoly over the use of the term "American."

The schools were depended upon to resist the efforts of immi-

grant groups to add their linguistic, cultural, and religious dimensions to the national fabric. In the 1840s and 1850s, the new common schools were used to assimilate minor linguistic and religious groups. Their usefulness for this purpose enabled the common school movement to take hold and spread rapidly beyond its Massachusetts origins.

It was important that these newcomers be "Americanized" as, supposedly, they constituted a threat to the nation's democratic ideals. Toward this end, they would be forced to adopt the English tongue and, if possible, the Protestant religion. This assimilationist endeavor became the principal activity of the public schools throughout the last century and well into our own.[27] Presumably, diversity—especially in languages—was an insurmountable barrier to national unity.

It is important to note, however, that the worst internal conflict in the history of these United States, the Civil War, was fought along lines that had nothing to do with language. Economic variations and racial/ethnic chauvinism were more likely to contribute to strife than diverse linguistic and cultural characteristics.

In 1845, writing in criticism of nativist bigots who resented Catholics, Chinese, and Japanese, Ralph Waldo Emerson viewed America as an "asylum of all nations" where "the energy of Irish, Germans, Swedes, Poles, and Cossacks, and all the European tribes—of the Africans, and of the Polynesians—will construct a new race, a new religion, a new state, a new literature, which will be as vigorous as the new Europe which came out of the smelting pot of the Dark Ages..."[28]

ANTI-FOREIGNER SENTIMENTS

That a separatist policy was in effect for the undesirable immigrants was evident by (1) the founding of the American "Know Nothing" Party, which excluded anyone not "native born" from holding political office; (2) misapplication of faulty theories about racially inherent disabilities or tendencies, backed by distorted statistics;[29] and (3) the debut of the hooded Ku Klux Klan society. The professed rationale for these developments was national security, not economic competition—and certainly not overpopulation. For while these anti-foreigner sentiments were manifested, immigration to the United States was encouraged by the passage of the Federal Emigrant Contract Labor Act, which guaranteed twelve-month wage contracts for immigrants. In fact, the increased flow of immigration caused New York City, the principal port of entry, to lease Castle Garden, a fort at the tip of Manhattan Island for use as a reception center for new arrivals in 1855.

The anti-foreigner activities had been spurred in part by the rapidly-increasing number of newcomers from southern and western Ireland, who around the mid-nineteenth century accounted for 45 percent of all immigration to the United States. The presence of Roman Catholics alarmed many citizens of this country who feared

an eventual papal takeover of the United States. Negative stereotyping contributed a great deal to the prejudice against them. The Irish were said to be eloquent braggards, impudent, pugnacious, shanty, and inebriated. They were the first White ethnic group to suffer prolonged, bitter discrimination from fellow Americans, bearing the brunt of the prejudice generated by the Know Nothing Party. So much so that Irish Protestants differentiated themselves as "Scotch-Irish" to escape the religious hostility.

Yet despite their own history of oppression, the Irish militantly opposed the emancipation of slaves in the years preceding the Civil War. Irish workers believed that freed slaves would move north to compete for their jobs. As the slavery issue gained momentum, it drew the nation's energy away from other bigotry campaigns—such as the Know Nothing Party—thus creating a beneficial diversion for the Irish.

The Irish joined the northern forces during the Civil War to help save the Union. However, they never agreed to a war fought to free the slaves and, in fact, felt betrayed when the fruit of the Union victory led to the emancipation of slaves. The tension between Irish and Blacks exacerbated when Black workers were used in 1863 to break a bitter dock strike led by Irish longshoremen.[30] Irish rioting broke out against Blacks in New York City and in Fort Leavenworth, KS around the same time that Irish agitators were inciting campaigns against the Chinese on the West Coast.

Although distrusted because of their Catholicism, the Irish were (besides the English) perhaps the ones with the most advantages for maintaining their ethnic identity in their new homeland. Their culture was very close to that of the British, which had emerged as the dominant cultural matrix in the United States. Their church was staffed with Irish clergy, who defended the culture as well as the faith. They spoke English, which gave them access to social relationships, the job market, and the political arena—a field in which the Irish became particularly skillful. The fact that they remained concentrated in eastern cities helped them in two ways: (1) it made their numbers seem overwhelming and (2) it made it easy for politicians to solicit their votes.

Speaking English had become a badge of Americanism vis-a-vis the "tenacious adherence of immigrants to their (non-English) mother tongue and cultural values."[31] The Germans, for example, considered their language so important that, before the Civil War, some Germans petitioned the U.S. Congress to let them have their own state where German would be the official language. The petition was apparently ignored. It is also said that a good many Germans rooted for the Confederacy during the conflict, reasoning that if the South was successful in seceding, Germans would have the opportunity to carve out their own territory.[32]

3 *Early Bilingual Schooling*

IRONICALLY, the language loyalty issue was not confined to immigrants. It involved the most native of all Americans, the Indians. Despite the objections of government officials, Indians had continued to use their tribal languages in addition to English.

No specific mention regarding the use of the English language had been made by Congress in its first provision for the expenditure of funds (not to exceed $15,000 per year) to promote "civilization among the aborigines" enacted in 1802. Neither was language mentioned in 1819 when Congress approved what has been considered the legal basis for most of the education work of the Indian Service.[33]

> The President may ... employ capable persons ... for teaching (Indian) children in reading, writing, arithmetic ... for the purpose of ... introducing among them the habits and art of civilization.[34]

One treaty did, however, include a reference to the language to be employed. This notable exception appeared in the Treaty of May 6, 1828, with the Cherokee Nation. Article five read in part:

> It is further agreed by the U.S. to pay $1,000 ... towards the purchase of a Printing Press and Types to aid the Cherokees in the progress of education, and to benefit and enlighten them as people, *in their own language.* (Emphasis added.)[35]

The Cherokees established and operated an educational system of 21 schools and two academies, which enrolled eleven hundred pupils, and produced a population ninety percent literate in its native language. They used bilingual materials to such an extent that by 1852 Oklahoma Cherokees had a higher English literacy level than the White populations of either Texas or Arkansas. Although the Cherokees were far from typical in that they were the only North American tribe that had developed an indigenous written language,[36] the Choctaws were only a little behind the Cherokees in terms of English literacy and they were closely followed by Creeks, Seminoles, and Chickasaws.[37] (By the mid-nineteenth century, incidentally, the Native American population had dwindled to less than 300,000.)

Native Americans were not officially U.S. citizens and their nations were not states of the Union, but some of the states entering the Union were clearly bilingual, or had bilingual enclaves. These included Ohio, Florida, Texas, and Colorado. Louisiana entered the Union in 1812 with a French-speaking majority and, under its 1845 constitution, was a fully binational state.[38] Until the Civil War, Lou-

isiana's legislative debates took place in French and English, laws were published in both with the French version often the official one, legal notices appeared in both, and both were used in legal proceedings. Public and private education also took place in both.[39]

As early as 1834, a bilingual book written by Martin Rosienkiewicz to facilitate the acquisition of the English language was being used in Philadelphia at the first school for Polish immigrants in the United States. The first Polish parochial school in the U.S., St. Stanislaw Parish, opened in Milwaukee in 1868 under the direction of the (non-Polish) Sisters of Notre Dame. It was soon followed by another school in Panna Maria, TX, staffed by the (also non-Polish) Sisters of Divine Providence. These schools marked the beginning of the Polish-American parochial school system in the United States.[40]

The 1848 Treaty of Guadalupe Hidalgo, resulting from the Mexican-American War, provided for the annexation of the Northwestern Territory of Mexico to what has now become the American Southwest. The Treaty sought the guarantee of land grants issued to 75,000 Mexican settlers who would now become American citizens.

At the end of 1848, there were approximately fifteen thousand residents in California, half of Mexican descent. But the Gold Rush quickly changed that. Within a year the population expanded to approximately 95,000 people and growing, almost all Irish, Chinese, and German. The Gold Rush not only initiated a monumental increase in the population but also resulted in a struggle over land, both of which operated to the political detriment of the Spanish-speaking inhabitants.[41]

At the time California became a state in 1850, nineteen percent of all education in that State was private and Catholic. These private schools, which were initially government supported, were composed of pupils mainly of Spanish descent who were taught in the Spanish language under the direction of the missionary padres.[42] However, in the early 1850s California passed statutes suspending publication of the State laws in Spanish and requiring court proceedings to be in English.[43]

Some of these restrictions were aimed at the Chinese, whose number had begun to increase around the mid-nineteenth century as China modified its isolationist policy to permit both immigration and emigration. The Chinese population in the U.S. grew from 54 in 1849 to 25,000 by 1851—and 99 percent of it was living in the West.

A foreign miners tax was excised in California to discourage Chinese prospectors. In 1854 the State managed to push through a law prohibiting people of color (Asians, Blacks, and Indians) from testifying in court against a White person. Sixteen years later it passed a law requiring that all schools in California be taught in the English language.[44]

Although most of the early school laws had made no mention of the language of instruction, laws enacted later permitted bilingual education to be used in the public schools. For example, Illinois did

not mention language in 1825, but permitted bilingual instruction in 1857. Iowa did not mention it in 1841, but did in 1861. Missouri did not in 1817, but did in 1887.[45] Michigan did not mention language of instruction in 1835; but permissive bilingual laws were enacted in Kentucky and Minnesota in 1867, Oregon in 1872, Colorado in 1887, and Nebraska in 1913. An 1837 State law permitted German schools to be founded on an equal basis with English ones in Pennsylvania. In some cases, all instruction was to be given in German. Scholars disagree on whether a free school law enacted ten years later allowed bilingual instruction.

A law was passed in Wisconsin in 1854 authorizing foreign language instruction in the public schools for a maximum of one hour a day. While this law did not specify which language was to be taught, the intention was that the language be Norwegian, in order to make the public schools more attractive to Norwegian immigrants. It was also the norm that whenever a newly-created school district contained a large German population, the schools were conducted either exclusively in German or in both German and English—with German teachers hired for that purpose.[46]

In 1869 a German-English bilingual program was started in Indianapolis. It lasted fifty years, during which there were great fluctuations in terms of quality and public support. French-English bilingual schools were commonplace in Louisiana during this period.

In 1850 the Territory of New Mexico (Arizona and New Mexico) enacted a law allowing bilingual (Spanish and English) instruction in public schools, although it was rarely implemented in the few public schools that were established during the early years of the Territory.[47] Three years later the U.S. Congress passed a measure authorizing the New Mexico legislature to employ a small number of Spanish-speaking personnel to accommodate the Spanish-speaking population.

Territorial laws enacted in 1863 and 1869 contained no language provisions despite the fact that historical accounts about the conditions in the territory leave no doubt that the public schools provided for in the laws had a predominantly Spanish character. There were practically no Anglos in the territory; the laws were in fact first drafted in Spanish and translated later into English. According to the 1874 annual report of the territorial school authorities, the composition of the New Mexico public schools was five percent English speakers, 69 percent Spanish speakers, and 26 percent bilingual.

In 1884 a school law was passed in New Mexico that specifically authorized monolingual Spanish public schools: "Each of the voting precincts of a county shall be and constitute a school district in which shall be taught ... reading, writing ... in either English or Spanish or both, as the directors may determine." In addition, the U.S. Congress authorized funds for the translation into Spanish of bills, laws, and journals of the territorial legislature, on condition that legislative proceedings and laws be printed in English.

Gradually, however, Anglo-Americans from the East who were unsympathetic toward Mexican culture came to dominate the territory.[48] In 1891 a New Mexico statute was passed requiring all schools to teach in English, as part of a broader struggle over land which was developing between the Anglo settlers and the Mexican-Americans.[49] Nonetheless, in 1902, a Congressional committee reported on the courts of New Mexico, which became a state in 1912, this way: "The justices of the peace practically all ... speak Spanish and the proceedings of their courts are conducted in Spanish."[50]

The Spanish language remained official in New Mexico well into the twentieth century as the original constitution of the new State of New Mexico required that laws passed by its legislature be printed in both Spanish and English for twenty years after ratification and that teachers be trained in Spanish to teach Spanish-speaking students.

The year 1871 saw the founding of the *Instituto San Carlos* in Key West, FL. All instruction in this private school was conducted in Spanish. (At the beginning of the twentieth century, the State of Florida designated funds to this school to pay the salary of an English teacher so that all students would receive one hour of instruction a day in English. In effect, this converted the institute into a semi-public and partially bilingual school.)[51]

GERMAN DUAL LANGUAGE SCHOOLS

Historians agree that the most important development in the early history of bilingual education was the effort of the Germans in the mid-nineteenth century to create a bilingual school system in the Midwest. As a result of vigorous pressure from its German constituents, Ohio passed an amendment to its school law in 1839 which permitted the establishment of German schools. The following year, a law was added to the city charter of Cincinnati providing "a number of German schools under some duly qualified teachers for the instruction of such youth as desire to learn the German language or the German and English languages together." A municipal committee eventually decided in favor of fully bilingual schools as opposed to German schools where English was taught as a subject. This decision was later supported in practice.

Some students of bilingual education credit this program—which lasted nearly four scores—with having formally initiated the bilingual education program in the United States.[52] There are data—albeit fragmentary—which suggest that at least one million American children received their education in German as well as English during that period. Other cities in Ohio, such as Cleveland and Dayton, as well as cities in other states, created programs modeled after the Cincinnati project. In fact, the Ohio State provision was incorporated into the 1847 Louisiana school law by merely substituting "French" for "German."

ETHNIC ENCLAVES

This period witnessed the growth of public school education in the United States. Private and parochial non-English or bilingual schools lost some ground to the public schools, which began to experiment with their own bilingual programs in order to attract the children of immigrants. Nevertheless, private schools continued to attract students; and with the arrival of new immigrant groups from eastern and southern Europe during the latter part of the nineteenth century, new non-English parochial schools were founded by such groups as the Poles, Lithuanians, Slovaks, and Italians.

In 1860, the year Abraham Lincoln was elected president, nearly half of New York City and nearly one-third of the populations of other major U.S. cities (with 100,000 or more inhabitants) were foreign-born. Where these immigrants had settled tells a great deal about the ethnic characteristics that each region would develop later. The Irish, Scots, and English generally populated the eastern states. The Irish, in particular, crowded into New York and Boston.

Taking advantage of free land offered by the 1862 Homestead Act (160 acres per settler), Swedes, Finns, Norwegians, and Germans started farms in Minnesota, Wisconsin, and Illinois. Poles, Russians, and Czechs settled in New England and the Midwest. Armenians and Syrians farmed in California. The mines in Pennsylvania drew workers from Czechoslovakia, Lithuania, and Latvia. Illinois, Wisconsin, and upper Michigan drew the "cousin jacks" from Cornwall (England). Many Bohemians (Czechs) became cigar makers in New York City.

The second half of the century also saw the arrival, chiefly on the West Coast, of immigrants from the Orient; first the Chinese and later the Japanese, Hindus, Filipinos, Sikhs (from Punjab in northwestern India), and Malays—most of whom settled in California. The Japanese, particularly, established numerous bilingual schools for their children.

There were German-English schools in Milwaukee, Indianapolis, Baltimore, and in many rural places before the turn of the century. Many of these schools were not actually *bilingual* in their curricula but were German-medium schools where English was taught as a subject. In other schools German, Norwegian, Czech, Italian, Polish, and Dutch were taught as subjects, though not used as media of instruction.

The year 1882 was the peak of Dutch immigration to the United States. The mainstream of immigrants from the Netherlands steered away from the southern states for, although the Dutch had been instrumental in bringing the first slaves to America in 1619, most people from the Netherlands were opposed to slavery.

The same reason kept Poles from settling in the South. Being very sensitive to the meaning of freedom, the Polish found slavery repugnant. There were approximately thirty thousand Poles in the United States at the time of the Civil War. By 1880, Chicago, Buffalo,

Detroit, Cleveland, Pittsburgh, and Milwaukee had become centers of Polish immigrants. Some newspapers were published in Polish, some schools taught children in Polish, and Catholic mass was said in Polish.

Irish prelates—such as John Spalding, James Cardinal Gibbons, and Archbishop John Ireland—regarded the use of the Polish language by the press, for school instruction, and for church services as un-American and un-Catholic. The American Catholic hierarchy, largely dominated by Irish and German clergy, argued that all national differences among Catholic membership in the United States needed to be ironed out and suggested this could be accomplished by emphasizing Americanization and abandoning foreign customs.

In the process, however, other nationalities of Catholics—such as Italians, Hispanics, and Poles—were not allowed participation in matters of ecclesiastical policy that affected them. As a result, the Polish National Church of America (inaugurated in Scranton, PA) developed outside the framework of American Catholicism.[53]

The year 1882 was also the peak year for the Norwegian immigration which had begun with the opening of the Dakota territory to settlers and the concurrent 1862 Homestead Act. Most Norwegian immigrants favored the free public school system in the U.S. but they also wanted their children to learn the Norse language and the Lutheran religion. The clergy, especially, felt that American schools were "godless." Thus many Norwegians relied on parochial schools to preserve the Norwegian language, as well as the literature, religion, and customs of their homeland. This enabled the children to learn English and become bilingual.[54]

Even groups for whom understanding English was not an issue because they spoke it before their arrival here (those from England, Ireland, Scotland, and Wales) often organized their own parishes so they could maintain their cultural traditions. The Welsh tried hard to preserve their vernacular by establishing separate churches where services could be held in Welsh.

There is no doubt that most immigrants to America wanted to become Americans. But it is also clear that many wanted some continuity between their ethnic cultures and the dominant culture of their new environment. They did not wish to see their children's American citizenship gained at the expense of deep and open hostility toward the culture and language of their former homeland.

For much of the nineteenth century, certainly before the 1880s, the structure of American public education allowed immigrant groups to incorporate linguistic and cultural traditions into the schools. In urban as well as rural areas, schools were decentralized and locally controlled. As such, they were responsible to ethnic and political pressures, and immigrant groups could successfully assert that the preservation of their cultural identity was a legitimate responsibility of public education.

Usually, this preservation took the form of instruction in a language other than or in addition to English. Indeed, wherever

immigrant groups possessed sufficient political power—be they Italian, Polish, Czech, French, Dutch, German—foreign languages were introduced into elementary and secondary schools, either as separate subjects or as languages of instruction.[55]

German was the most prevalent non-English tongue admitted as a medium of teaching. French was used in Louisiana and New England, Spanish in New Mexico, and Scandinavian and Dutch in the Midwest.[56] In 1917 San Francisco taught German in eight primary schools, Italian in six, French in four and Spanish in two. The prominence of German in the schools during that period was a function of the fact that the largest number of non-English-speaking immigrants at that time were Germans—many of whom were fleeing the aftermath of the unsuccessful revolution in 1848. In fact, from 1860 to 1890, Germans topped the list of nationalities for all immigration to the United States.

In numerous cities, German became a regular part of the elementary school curriculum. In Cincinnati, for example, children in the first four grades wishing to do so (about fourteen thousand in 1899) could split their school week between an English teacher and a German teacher. Some 186 German-speaking teachers were employed for this purpose. During the mid-1870s, St. Louis' superintendent of schools William Torrey Harris (soon to become U.S. commissioner of education) defended his city's bilingual program by claiming that "national memories and aspirations, family traditions, customs, and habits, moral and religious observances cannot be suddenly removed or changed without disastrously weakening the personality."[57]

THE ST. LOUIS EXPERIENCE

Kathy Escamilla relates an enlightening story about the German struggle to retain native language and culture in St. Louis.[58] The Germans constituted the largest foreign group in St. Louis during the latter half of the nineteenth century[59] and, as a group, their behavior hardly characterized a minority eager to reject tradition. The fact that this group would rather send its children to German parochial schools than to the public schools where only English was spoken was documented by Thomas Graebner when he asserted that prior to 1890 even members of the irreligious majority would enter their children in German language parochial schools for the sake of the language.[60]

They founded a corporation to establish a German-English Public School in 1837—the year *before* the first all-English public school opened in St. Louis. Twenty-three years later the "dual medium" school staff and student body were half the size of those of the public schools. The German community refused to support the public schools unless these were to offer a dual medium curriculum.

The St. Louis Board of Education experimented with German instruction in the public schools from 1864 to 1887 in an effort to lure German students into the public schools. The effort was some-

what successful for, while four of five German children were attending German parochial schools in 1860, four of five German children were attending public schools twenty years later.

Non-German pupils—the remaining 23 percent of the enrollment in those public schools—were also receiving German instruction, thus creating the setting for two-way bilingual instruction. German was taught in 52 of 57 public schools in St. Louis.[61]

Opponents of these schools argued that the inclusion of the German language in public schools was a luxury the school board could not afford; that while learning German, many students did not sufficiently master the 3 R's; and that German was not a desirable addition to the curriculum and, more importantly, threatened the universality of the English language.

This opposition came mainly from the Irish who insisted that if German were a part of the public school curriculum Gaelic, French, and Hebrew also should be added to the curriculum since these languages too were represented in the city of St. Louis. This challenge was presented to the school board in 1878 in a resolution, but was quickly denied on the grounds that the city school board could not afford to provide bilingual schooling for all of these language groups.

Undaunted, the Irish offered another resolution asserting that if indeed the school board was financially pressed, it should teach only English. This resolution was also defeated. That these resolutions never received serious consideration was, in part, attributable to the fact that neither the Irish, French, or Jews had the numbers of people in St. Louis that the Germans had, nor did they have the political strength and organization. The German community had rallied and united in order to defeat the resolution and, in fact, had circulated a petition to maintain the German-English schools. It was signed by forty thousand people (one-eighth of the entire population of St. Louis).[67] No further serious opposition threatened their position for the next nine years.

Ironically, there were remarkable parallels between the argument that schools excluding the German language and culture could not properly educate German children and the claim that schools excluding Catholic doctrine could not fully educate Irish children and, therefore, were not really public schools. Both groups wanted a share of tax monies for the schooling of their respective children. (Even more ironic was the fact that, a century later, their great-grandchildren—ignorant of their own history—would deny these same rights to others on the grounds that their ancesters "made it" without special services.)

During the 1880s, German-English schools extended from kindergarten through high school. It was the Germans who were credited with establishing the first kindergarten in Wisconsin around the mid-nineteenth century. William T. Harris introduced the kindergarten as part of the St. Louis public school system.[63] These kindergartens were not initially bilingual, however. They were German language schools only, designed to fully develop the child's

German language skills prior to entrance in a dual medium German-English first grade.

The German-English secondary schools in St. Louis were not dual medium schools either. In these secondary schools German was merely a branch of study, one area in the curriculum. But it is important to note that, at this particular time, German was the only language other than English to be part of the secondary curriculum.

A redistricting of the city in 1887 split the German vote into small segments and, consequently, the board of education election in that year resulted in a victory for the anti-German forces. These forces moved swiftly to announce the termination of all German instruction in the schools at the conclusion of the 1887-88 school year. Although the new St. Louis Board of Education offered its facilities to any group that wished to teach German at its own expense outside the normal school hours, many German immigrants were so incensed that they removed their children from the public schools and placed them once again in parochial German-English schools[64]—even though they had to pay both tuition and taxes. Not only St. Louis but Louisville and St. Paul created storms among America's German population by dropping their bilingual programs, and later restricting the teaching of German only to the upper grades in the public schools.

4 The Decline of Bilingual Education

DESPITE THE SUCCESSES in ethnic pluralism, pressure to convert to a culturally homogeneous value system proved too great. At the end of the nineteeneth century and during the first decades of the twentieth century, bilingualism and biculturalism in the public schools were rapidly disappearing. The conflict over foreign languages and foreign customs, what one historian has called "a symbolic battle between those who wanted to impose one standard of belief and those who welcomed pluralistic forms of education," was being resolved, and pluralism was in full retreat.[65]

NEW IMMIGRATION

German immigration had risen to one and a half million during that decade (1880-90), which also marked the peak of Swedish immigration to the United States. In 1884 organized Ukrainian community life in the U.S. began in Shenandoah, PA. About 85 percent of the Ukrainian immigrants between 1870 and 1914 settled in Pennsylvania, New York, and New Jersey.

Finns were also part of the "new immigration," along with Lithuanians, Poles, Slovaks, Greeks, and Russians. It was difficult to ascertain the number of Finns who came to the United States at the turn of the century because those traveling with Russian passports were categorized as Russian, those who came via Norway wound up on that country's roster, and Finns who spoke Swedish were often classified as Swedes. Most Finnish-Americans were settling along the shores of Lake Superior in Minnesota, Michigan, and Wisconsin—the areas that most resembled their native land. Others went to Montana, Arizona, Pennsylvania, Wyoming, Washington, South Dakota, Colorado, and Alaska. Other immigrants coming to the United States at the end of the nineteenth century included Armenians, Swedes, Yugoslavs, Russian Jews, and Asians.

Chinese immigrants had been coming to the United States since the mid-nineteenth century and had continued to arrive in increasing numbers partly pushed by the Taiping Rebellion and partly pulled by the California gold rush. In 1882, after 300,000 had arrived, Congress passed the Chinese Exclusion Act—marking the first time that the U.S. government denied entry to a specific group because of its national origin.[66] Half the Chinese laborers and their

families returned to China, but they were quickly replaced by Japanese. Commodore Matthew Perry's 1860 diplomatic journey had not only succeeded in opening Japan's doors to Americans, it eventually led the Japanese government to permit its constituents to emigrate in 1885.

It was not long, however, before the Japanese immigrants were also experiencing open hostility. The prejudice was exacerbated by the Russo-Japanese War in 1904, for it extended America's fear of a "Yellow Peril" to include the Japanese in addition to the Chinese. Even the *San Francisco Chronicle*, the City's leading newspaper, insisted that Japanese children were crowding American children out of the classrooms. (There were 93 Japanese students attending San Francisco schools out of a total enrollment of 25,000.)

In 1906 the San Francisco School Board directed all children of Asian immigrants to attend a segregated school in Chinatown—in spite of the fact that these children did not all live in any one section of the city and, therefore, it would have been impossible for all of them to attend just one school. President Theodore Roosevelt called the board's action "wicked absurdity." The directive was subsequently withdrawn when the President agreed to limit the immigration of Japanese from Hawaii into the U.S. Mainland.[67]

In 1913 the California Legislature overwhelmingly passed the Alien Land Act, prohibiting the Japanese from owning land. Seven years later, over President Wilson's objections, the prohibition was extended also to leasing rights. The 1924 Immigration Act barred aliens who were not eligible for U.S. citizenship. This excluded all non-Whites except those of African descent. This policy, incidentally, had already been invoked against Mexicans at the end of the nineteenth century.

The highest proportions of the foreign-born population consisted of Germans (27 percent) and Irish (16 percent). About 2.7 million German-born people lived in the U.S. Chicago was the most identifiably Czech city in America—often referred to as "Czech-ago." Other large Czech settlements were established in Ohio, New York, Iowa, Wisconsin, Nebraska, Kansas, Oklahoma, and Texas. By the turn of the century, practically every major city in the U.S. was publishing newspapers in either Croatian, French, German, Greek, Hebrew, Polish, Spanish, Ukrainian, Yiddish (derived from German mixed with Hebrew and Slavic vocabulary), or some other foreign language, depending on the geographic location of the city.

The early crest of bilingual education lasted no more than a half century. The lack of widespread public support for these programs was due to the fact that their initiation had been more often than not the result of political pressure from the German-speaking population or another minority group rather than a widely-shared public conviction about the desirability of bilingual programs. It was extremely difficult for these programs to maintain effective, quality teaching in the face of fluctuating public support. The Germans were obviously victims of the mass xenophobia that had afflicted the fledgling nation since its independence.

INDIAN REMOVAL

The national drive toward cultural and linguistic (not necessarily racial) homogeneity was not limited to those who had recently immigrated to these United States, it was extended also to citizens of newly-acquired territories. In fact, co-optation had been tried with Native Americans as the need for land they owned and occupied became critical in the course of national expansion. Henry Knox, the first U.S. Secretary of War, had argued against taking land from the Indians, reasoning that:

> The Indians being the prior occupants, possess the right of the soil. It cannot be taken from them unless by their consent, or by rights of conquest in case of a just war. To dispossess them on any other principle would be a great violation of the fundamental laws of nature.[68]

However, that argument was laid to rest with the death of Gen. Knox in 1806 and the policy was overruled by the Nation's fifth president, James Monroe, who wrote in 1817:

> The hunter or savage state requires a greater extent of territory to sustain it than is compatible with the progress and just claim of civilized life—and must yield to it.[69]

The effort to eradicate the Indian presence by breaking up extended families (the clan structure) was accelerated after the discovery of gold on the Pacific Coast and in the Rocky Mountains, which attracted huge numbers of White prospectors. The promoters of transcontinental railroads sought grants of land along their routes increasing the pressure on Indian land and tribal units.

In response to this demand for more land, the Homestead Act was passed in 1862, which opened up the plains to White settlers. To facilitate the process, "encouragement was given to the slaughter of big buffalo herds, the Indians' principal source of food. With their meat gone, it was believed the tribes would be forced onto the reservations by the promise of rations."[70]

The Bureau of Indian Affairs (BIA), which had been originally created in 1824 under the Department of War and had become part of the new Department of the Interior in 1842, was the agency basically responsible for meeting the needs of Native Americans—including their education. English language in the Indian schools was first mentioned in the report of the Indian Peace Commission, a body appointed under an act of Congress in 1867—the year Alaska was purchased from Russia—to make recommendations for the permanent removal of the causes of Indian hostility. Its report of 1868, motivated by a combination of humanitarianism, militarism, and expansionism, states:

> . . . in the difference of language today lies two-thirds of our trouble. Schools should be established which children should be required to attend; their barbarous dialects would be blotted out and the English language substituted.[71]

After the treaty period came to an end in 1871, government schools conducted exclusively in English began to be established, gradually displacing the mission schools and their bilingual approach; many of the Indian schools which the tribes had begun to establish and run themselves were also eliminated. In fact, the printing presses used by some of the Native American tribes, such as the Cherokees, were dismantled and sent off to the newly-founded Smithsonian Institution.[72]

In 1879 a Congressional commission established the off-reservation boarding school, which separated Indian children from their parents, and imposed a total ban on Indian languages, customs, and dress. Some students of the Indian experience contend that one of the boarding school's purposes in removing Native American children from their homes was to eradicate their languages, cultures, and religions replacing them with English, the Anglo culture, and Christianity in hopes that the children would not return to their homes.[73] After several generations, land abandoned by the detribalized Native Americans would be available for Anglo pioneers.

This wholesale separation of Indian children from their families was perhaps the most tragic and destructive aspect of American Indian life. Because the family is the most fundamental economic, educational, and health-care unit in society and center of an individual's emotional life, assaults on Indian families helped cause the conditions that characterize those cultures of poverty where large numbers of people feel hopeless, powerless, and unworthy.

Historians indicate that the most forceful promoter of English as a civilizing tool was J.D.C. Atkins, Indian Commissioner from 1885 to 1888. He directed that "no textbooks in the vernacular will be allowed in any school where children are placed under contract, or where the Government contributes to the support of the school; no oral instruction in the vernacular will be allowed at such schools—the entire curriculum must be in the English language."[74] Several Indians reported they were punished in boarding school when they were caught speaking their native language by having their mouths washed out with soap.[75]

The prohibition of native language use had great repercussions for the communicative skills of American Indians. It was aimed at the very matrix of the expressive aspects of existence: language (vernacular and ritual), culture (music, song, dance, art), and other emotion-laden elements (such as religion).[76] Even making beadwork was prohibited by Federal officials. This policy precipitated the decline of Native American literacy. (The Cherokee, for example, dropped from the most literate nation to the most illiterate in a period of a hundred years.)[77]

The Dawes Severalty Act, passed in the mid-1880s, formalized the allotment process for Indian lands. Tribal lands were to be divided and 160 acres were to be assigned to each Indian family head. Citizenship was conferred upon all allottees and upon other Indians who abandoned their tribes and adopted "the habits of

civilized life." Surplus tribal lands remaining after allotment might be sold to the United States.[78] (This process resulted in the transfer of some ninety million acres from Indian to White ownership by the time U.S. citizenship was conferred upon all American Indians by the 1924 Wheeler-Howard Act.)[79] It is, perhaps, significant that the Indian population was at the all-time low of a quarter million at the end of the nineteenth century. It began to gradually increase again in the twentieth century.

LINGUISTIC HOMOGENEITY

The need to consolidate the nation's territorial gains and solidify its political processes seems to have played an important role in its drive toward cultural and linguistic conformity.[80] As soon as Hawaii was annexed by the United States in 1898, for example, English was introduced into the legal and educational systems. The initial organic act for Hawaii in 1900 directed that all legislative proceedings be conducted in English. At first, laws were published in both English and Hawaiian; eventually they were published only in English.

In 1901 English was established as the official language of instruction in the Philippines. (Originally it was intended that Spanish would be dropped as an official language after 1913, although this was not accomplished.)[81]

Likewise, as soon as the United States occupied Puerto Rico during the Spanish-American War in 1898, an English-only rule was established in the island's schools—which proved devastating since the population was entirely Spanish-speaking and 85 percent illiterate. The rule was modified two years later making Spanish the medium of instruction in the elementary schools and English in the secondary schools. This resulted in students dropping out before reaching high school.

A concerted effort to Americanize the island through the schools was evident in other ways. More than twelve percent of the teachers were American[82] (most of whom did not know Spanish); schools were renamed in honor of American statesmen (Franklin, Jefferson, Lincoln, McKinley);[83] educators were directed to celebrate American holidays (Washington's Birthday, Flag Day, Memorial Day);[84] and students were taught American patriotic songs *(Hail Columbia, Yankee Doodle).*[85] Samuel McCune Lindsay, who was commissioner of education in Puerto Rico from 1902 to 1904, wrote:

> . . . Colonization carried forward by the armies of war is vastly more costly than that carried forward by the armies of peace, whose outpost and garrisons are the public schools of the advancing nation.[86]

In 1905, the American government of Puerto Rico reverted to the initial all-English language policy. The island's governor reported that in December of that year, 165 grades were being taught in English, 77 of which were being taught by American teachers

imported for that purpose.[87] However, the administration was having difficulty retaining American teachers because of the low salaries, so Puerto Rican teachers were being urged to become proficient in English if they wished to maintain their teaching status. The education commissioner proudly reported that in one year (from 1906 to 1907) the number of Puerto Rican teachers giving instruction wholly or in part in the English language increased from 89 to 280.[88] However, it was observed that by forcing the teachers to do all teaching in English, the system was limiting them to a reduced vocabulary, which permitted them to impart only a determined amount of knowledge, made them entirely dependent upon the textbooks,[89] and severely curtailed their free expression and interaction with students. One critic of the English-only policy observed:

> I consider it unavoidable to have a knowledge of English ... but ... the means and methods used to teach in our schools (are) inhuman, erroneous, and disturbing.[90]

ETHNIC BIGOTRY

Efforts to root out languages other than English from the United States and its possessions continued to intensify. While national security and unity were offered as reasons for this, Leibowitz has hypothesized that the reason for the restriction may have its roots far deeper in the foundations of the nation's sociopolitical ideology; far enough in fact, that it is possible to see it as a manifestation of the social and institutional racism which operated throughout the society.[91]

The obvious change in the pattern of immigration, which in the late nineteenth century was becoming increasingly eastern and southern European and Asian—differing in language, history, and culture—was causing many citizens to fear that immigration and bilingualism could "get out of hand." The fact that newcomers were smaller, darker, and spoke languages of lesser prestige played right into the hands of those who had embraced Darwin's recent theories concerning the "inherent inferiority" of certain races.

In most large cities, such as New York, it became fashionable at the beginning of the twentieth century to compare ethnic groups by intelligence tests or by rates of school retardation.[92] A 1908 analysis of fifteen New York elementary schools showed that German pupils had the least "retardation" (16 percent) and Italians the highest (36 percent).

A 1911 survey of more than two million children of immigrant families in the U.S. found 51 percent of the Germans, 60 percent of the Russian-Jews, and 77 percent of the Italians below grade level. A study of the proportion of pupils who graduated high school ranked Russians highest (36 percent) and Italians lowest (0 percent) again. While, on one hand, school officials blamed educational retardation on a variety of factors, including language problems, late enrollment in school, and the strain of after-school employment; on

the other hand, thousands of children were turned away from overcrowded schools, permitting them to endure working twelve-hour days or to join small armies of juvenile vagrants in the city.[93]

By 1890 more than half the population in America's nineteen largest cities consisted of immigrants and their offspring. These included 86 percent of Milwaukee, 80 percent of New York, 78 percent of Chicago, 77 percent of Buffalo, 75 percent of Cleveland, 71 percent of Brooklyn, 67 percent of St. Louis, and 57 percent of Philadelphia. They took over decaying housing previously occupied by the preceding immigrants, who had by now moved out to bigger and better homes in the suburbs.

Many sociologists, finding the slums seething with new immigrants, made dubious correlations attributing dirt and overcrowding to the new immigration. Henry George, for example, applied the phrase "human garbage" to the immigration of the late 1880s. Others denounced the newcomers as "subversive paupers."[94]

New York's Castle Garden was replaced by Ellis Island out in the harbor when the Federal government assumed control of immigration in 1891. This isolation, resembling quarantine measures against a plague, tended unfortunately to symbolize—even bolster—the growing revulsion among established Americans against unrestricted immigration.

For the next forty years, sixteen million (mostly European) immigrants entered the United States by way of Ellis Island, where at one time signs were posted in nine different languages. The Americanization process often began here as immigrant names were changed by port-of-entry officials due to misunderstanding, negligence, or their own determination to "simplify" the names. Thus, Berkowitz often became Burke, De la Noye became Delano, and Schmidt became Smith. Some immigrants even took the name "Ellis." It was believed that the Pennsylvania Dutch were thus labeled because the first arrivals, who were German, answered *Deutsch* when asked what language they spoke.

In addition to New York, many immigrants came to ports in Boston, Philadelphia, and Baltimore. Asians, on the other hand, came mostly to San Francisco and Seattle. Mexicans entered via the border states of Texas, New Mexico, Arizona, and California. Other Latin Americans came to New Orleans and Savannah. There were seventy different ports of entry in the U.S. beckoning immigrants from all the regions of the world. Although immigrants who were not of Anglo-Saxon or Teutonic ancestry would face additional discrimination based on their race or national origin, none of the new entrants was welcome by those who were here before them—save their own families.

> Give me your tired, your poor,
> Your huddled masses yearning to breathe free,
> The wretched refuse of your teeming shore.
> Send these, the homeless, tempest-tost, to me,
> I lift my lamp beside the golden door!

Emma Lazarus' beautiful poem, graven on the pedestal of the Statue of Liberty, expresses a fine sentiment but, in truth, Americans did not really welcome the tired, poor, homeless masses of "wretched refuse." In 1907, the year of the immigration peak, a commission was busy trying to furnish an intelligible basis for legislation to control immigration. The study was expected to be neither scientific nor impartial, since most "experts" employed for the research already favored restriction.[95] To the disappointment of many, the conclusions contained in the 42-volume Dillingham Report did not recommend the restriction of immigration. They did, however, favor a literacy test for admission into the United States.

The image of the immigrant as unlettered and easily corrupted was clearly evident in several important studies, reports, and other major works of the time. Eaton wrote at the turn of the century:

> What spectacle could be more humiliating to an American patriot ... than those often presented in grog-shops, low lodging houses, and gambling dens, when party leaders and captains ... are competing ... among the degraded and criminal emigrants, as ignorant of our laws and language, perhaps as they were regardless of the laws of the country from which they fled.[96]

The nation's xenophobia had been undoubtedly exacerbated before the turn of the century by the fact that the highest number of immigrants were from southern Italy: Calabria, Naples, and Sicily. Italian *contadini* (peasants) combined all the ingredients regarded as dangerous to national and economic security, health, and social fiber. After all, they were Catholic, swarthy, illiterate, spoke a language which was unfamiliar to most people here, and were generally more "disorderly" than their predecessors. They--along with other newcomers of that period—were blamed for crime, unemployment, and unsanitary conditions. Their political beliefs were suspect,[97] and the suspicions were aggravated by their communicating among themselves in a "foreign" language—which was perceived as a strategy for secrecy. Open hostility, discrimination, even violence were perpetrated against them. Italians were known to have been lynched and their children barred from "White" schools in the 1890s.[98]

In 1909 an entire Greek community of about twelve hundred was driven from Omaha and its property destroyed. That same year California amended its education code to allow separate schools for "Indian and Mongolian" children, then proceeded to segregate Mexicans by classifying them as Indians. Immigration from Mexico had become increasingly significant as a socially disruptive revolution, conditions of extreme poverty, and U.S. labor needs drove thousands of Mexicans north of the Rio Grande.[99]

During the 1920s nearly a half million Mexicans entered the United States on permanent visas—approximately eleven percent of the decade's total immigration. It is difficult to estimate how many more entered informally (without documents) aided by slipshod border procedures. Although most Mexicans settled in the Southwest, by the end of the decade fifteen percent of them had resettled

in other parts of the country. Thus, "Chicanos" were becoming a national—no longer just regional—minority group.

To say that the Mexicans were not welcome in this country would be a euphemistic understatement. Their collective non-White status, poverty, Catholicism, and "foreign" tongue—combined with tales of the Spanish black legend and the nativist sentiments of the times—placed the Mexicans in a stratum well below the Italians in American society.

Essentially, disdain toward Blacks broadened itself into blanket dislike for all non-Whites, the early anti-German feeling escalated into a nationwide anti-foreign policy, and the already strong anti-Catholic prejudice extended as well to the other non-Protestant religions of the nation's most recent arrivals. Jewish immigrants, for example, were excluded from employment, housing, and social organizations. Their children were segregated in schools.

Perhaps nowhere is the fact that the schools mirror the mores of society more evident than in the way the composition of school populations reflects the residential patterns of the community. In 1905, ten schools in the Lower East Side of New York City were 99 percent Jewish. Interestingly, when the Board of Education proposed shifting fifteen hundred students to the West Side, two thousand irate Jewish parents turned out in protest.[100] Essentially, most feared the loss of freedom of worship as well as the potential hostility of a new environment for their children. But many felt that the desegregation process was part of a concerted effort to disperse them, weaken their communities, and wrest their religion from their children. Their suspicions may have been founded on the fact that the public schools had never really tolerated the preservation of any degree of diversity among their pupils. Depending on their origin, minority groups were either suppressed altogether or stripped of their cultural identity, but seldom permitted to thrive as a distinguishable entity. To this end, the efforts of the schools and other institutions focused on Americanizing the immigrants—often with the cooperation of organizations from the ethnic communities themselves.

AMERICANIZATION EFFORTS

Cities like New York, Chicago, and Detroit set up special classes for language minority immigrants as part of night school programs. In the 1890s the Educational Alliance of New York City had a program to "educate" Jewish immigrants in the language and customs of the United States. In 1899, Jane Addams established classes in Chicago's Hull House to help the immigrants. Similar classes were set up later by the Society for the Italian Immigrants, the Polish National Alliance, and the National Society of Colonial Dames of America.

In 1907, the year that immigration reached its peak, New Jersey passed a law providing for evening instruction in English and civics

for immigrants. Between 1907 and 1912, the Young Men's Christian Association (YMCA) was responsible for teaching English to 55,000 immigrants in 130 cities and towns.[101]

It was not always society's altruism that was coming to the fore. While the efforts of the schools to assist the newcomers by teaching them the language and customs of the United States were commendable and seen by many as a genuine desire to help new immigrants assimilate, there were those who believed it was an attempt to "train" them so as to make them more manageable. That the schools have served as the stepping stones for millions of immigrants to enter the American mainstream is a self-serving cliché.[102] Indeed, some historians feel that the most critical task of the schools in the case of immigrants was to:

(1) preserve and transmit societal values to these "immature" (and uncivilized) newcomers;
(2) select which norms to conserve and which to reject;
(3) sustain the prevailing cultural ethic in the face of contemporary challenges—both foreign and domestic; both real and imagined.[103]

THE MELTING POT CONCEPT

The task of education, wrote an educator in 1909, is to "break up these (immigrant) groups or settlements, to assimilate and amalgamate these people as part of our American race, and to implant in their children, so far as can be done, the Anglo-Saxon conception of righteousness, law and order, and popular government, and to awaken in them a reverence for our democratic institutions and for those things in our national life which we as a people hold to be of abiding worth."[104] The dilemma faced by a diverse society seeking human rights on the one hand and despoiled by discrimination because of differences on the other was further exacerbated by the "melting pot" theory which insisted that people of disparate cultures assimilate and disappear into the mainstream of the White, Anglo-Saxon, Protestant society. A 1909 Broadway play, dedicated to Theodore Roosevelt, set forth this concept of America as a crucible.[105] In *The Melting Pot*, British author Israel Zangwill has the play's protagonist, a Russian-Jewish immigrant, describe America in a soliloquy:

> America is God's Crucible, the great Melting Pot where all races of Europe are melting and reforming! Here you stand, good folk, think I, when I see them at Ellis Island, here you stand in your fifty groups with your fifty languages and histories, and your fifty hatreds and rivalries, but you won't be long like that, brothers, for these are the fires of God. A fig for your feuds and vendettas! Germans and Frenchmen, Irishmen and Englishmen, Jews and Russians—into the Crucible with you all! God is making the American ... The real American has not yet arrived. He is only the

> Crucible, I tell you:—he will be the fusion of all races, the coming superman.[106]

In another scene of the play, the same character mentions the Celt and Latin, Slav and Teuton, Greek and Syrian—and the Black and Yellow—as elements in the great melting pot. The melting pot notion was quickly adopted as a promising ideal for fusing peoples from various new and old immigrant groups into a new common American society. While the prospect seemed an attractive idea to many immigrants, its success for all members of society was dubious. To facilitate their melting into American society, immigrants usually adjusted their customs, native dress, and lifestyles. They were afraid or ashamed to speak their native language in public and often Anglicized their names.

One of the ideological flaws of the melting pot was that it never proposed to "melt" all ethnic and cultural groups. It rejected as "unmeltable" many ethnic groups whose racial pedigree was deemed inferior—or at least suspect. The concept assumed that only the dominant White Anglo-Saxon Protestant culture was worth saving, and it was expected that those who wished to be absorbed by the melting pot had to surrender their own cultural heritage as a price of admission.

ANGLO CONFORMITY

As global developments edged the nation closer to World War I, not only did the anti-German sentiment intensify, but the English-only policies became stricter and the drive toward Anglo conformity accelerated. It was generally feared that non-English-speaking immigrants or non-citizens would feel no loyalty or obligation to fight for the United States.

This may have been one of the reasons why full American citizenship was bestowed upon Puerto Ricans—with the concomitant requirement of obligatory military service—a month before the United States entered World War I in 1917. Another contributing factor was that the island's strategic location was believed indispensable to the defense of the newly-opened Panama Canal. In any event, more than twenty thousand Puerto Ricans were inducted into the United States Armed Forces in June of that year by order of President Woodrow Wilson.[107]

Although speaking English had not been a requirement for the granting of citizenship to Puerto Ricans, the effort to convert the island's official language from Spanish to English never ceased. In 1912 the education commissioner reported that during his five-year term the number of schools that taught wholly in English had increased from 202 to 947.[108] By 1915, it was reported that 47 percent of instruction in the elementary schools was being given in English and 25 percent in Spanish. The remainder was being taught in either English or Spanish, or both.[109]

After eleven unsuccessful years of English-only instruction in the public schools of Puerto Rico, the commissioner of education

introduced a compromise gradual approach in 1916 whereby Spanish was used in the first four years of school, Spanish and English combined in the fifth grade, and English only from sixth to twelfth. The goals of this policy, according to the commissioner, were "the conservation of Spanish and the acquisition of English—to make children bilingual."[110] (This transitional bilingual policy—with occasional modifications—remained in effect for 32 years.) Although the strategy had changed, the goal was still to Americanize Puerto Ricans and eventually eliminate Spanish from the island, according to records of official communications.[111]

Teachers on the island were directed not only to teach in English but to speak it at home, to join and organize clubs and societies that used English, to take their vacations on the U.S. Mainland, and to arrange for their students to correspond with pen pals on the U.S. Mainland. Non-compliants were told they may be asked to resign.[112] In addition, school papers were to be published exclusively in English,[113] and the emphasis continued in celebrating American holidays and naming schools after Anglo-American heroes. Juan Huyke, appointed by President Harding in 1921 as the first Puerto Rican commissioner of education, stated in an article:

> Our schools are agencies of Americanism. They must implant the spirit of America within the hearts of our children.[114]

The support for teaching English in Puerto Rico was seen as a political barometer. Those who favored the teaching of English were considered "assimilationists;" those who favored teaching in Spanish were considered "separatists."[115] The situation became downright ugly when the fervor for English escalated into an anti-Spanish feeling which extended to other manifestations of Puerto Ricanism. On one occasion when someone waved a Puerto Rican flag during graduation exercises in San Juan's Central High School, Commissioner of Education Paul Miller instructed the police to "remove the enemy flag" from the premises.[116] Thus, intolerance for anything that was not American seemed to be the national norm—even in Puerto Rico. Ironically, the criteria defining "Americanism" were bound by very narrow parameters.

The period after World War I was characterized not only by the almost complete abandonment of bilingual education in the United States but by a declining interest in the study of foreign languages. A combination of reasons for this posture included (1) the advent of mandatory attendance laws for public schools, (2) the elimination of public funding for church-affiliated schools, and most importantly, (3) the isolationism and nationalism which pervaded American society after the war.[117]

Language legislation was so prohibitive that it bordered on the ridiculous. Although it was impossible to suppress the use of German in the private sphere, thorough and often successful attempts were made in Ohio, Iowa, Texas, Nebraska, and other places to suppress its use in public. Fines were levied for the use of German in the streets, on the telephone, on the railroad—even in churches.

These statutes proved destructive to German civil, social, and religious organizations which depended largely on freedom of assembly along with freedom of speech—both of which are guaranteed by the First Amendment.[118] But they proved even more destructive to non-English-speaking students everywhere who were being taught in English, for it was already recognized that the inability to understand the language of instruction was the chief cause of immigrant children's poor performance in school.[119]

While only 14 of the 45 states had regulations requiring that English be the sole language of instruction in 1903, by 1923 some 34 of the 48 states had such provisions. English-only instructional policies were extended (in Connecticut, Massachusetts, and Rhode Island) even to private schools. In some states the laws forbade the use of other languages for instruction in all subject areas except foreign language classes. In seven states, statutes revoked certification of teachers caught in the "criminal act" of using any language except English to teach in the public schools. Students who violated this English-only rule were subjected to sundry indignities, such as small fines or detention. "Spanish detention," for example, became a household word in the Southwest.[120]

This linguistic equivalent to book-burning worked rather well, but it worked best with northern and western European immigrants who shared a degree of cultural affinity, shared goals and priorities in coming to this country, and shared a Caucasian racial history. These were the "meltable" ethnics. It was much more difficult to Anglicize Native Americans, Hispanics, and Asians. Difficult, but not impossible.

Right after World War I, the U.S. government required that all teaching in public and private schools in Hawaii be in English, although the policy permitted Hawaiian to be taught in addition to English in the high schools. Legislation was also proposed to severely limit the operation of the private foreign language schools that were teaching Japanese as a cultural supplement to the public schools. Although there was strong public opposition to this proposal, the law was passed in 1923, and the teaching of foreign languages was limited to one hour a day. Courses, texts, and the age of pupils were prescribed by the Territorial Department of Education. All teachers were required to read, write and speak English and to be versed in American history. The declared purpose of this legislation was to foster Americanization.

Nebraska also attempted to legally restrict the teaching of foreign languages. But a 1923 Supreme Court decision based on the Fourteenth Amendment declared English-only legislation as unconstitutional. In *Meyer* v. *Nebraska*, the State Supreme Court ruled that the prohibition or undue inhibition of the teaching of any subject in any language other than the English language in any school, or "the teaching of languages other than the native language below the eighth grade is unconstitutional, as arbitrary and without reasonable relation to any end within the competency of the state, and as depriving teachers and parents of liberty without due process

of law."[121] (The court added, however, that a state provision requiring English instruction in public and private schools was permitted by the Constitution.)

Four years later, in *Farrington* v. *Tokushige*, the Court declared the Territorial legislation of 1923 regulating foreign language schools in Hawaii to be unconstitutional. Private foreign language schools were no longer to be subject to the public authorities.[122]

These rulings were to be historic milestones in favor of all the linguistic minorities on American soil that endeavored to uphold the language of their ancestors and pass it on to their children. They were blows to the expressed sentiments of many of the nation's influential leaders.

Reflecting the mood of his era, Theodore Roosevelt had preached in 1917 that "it would not be merely a misfortune but a crime to perpetuate differences of language in this country" and suggested that an immigrant who had not learned English after five years "should be sent back to the land from whence he came." (sic)[123]

It is an interesting historical footnote that his son, Theodore Jr., who was governor of Puerto Rico from 1929 to 1932, espoused a completely different philosophy. Young Teddy welcomed the challenge of trying to blend two cultures harmoniously, and he recognized the importance of having a community conversant with two languages and two cultures associated with the United States. He saw "no reason to continue the hopeless drive to remodel all Puerto Ricans so that they should become similar in language, habits and thoughts to the continental Americans."[124]

Governor Roosevelt's rationale signaled a change of direction in the language policy of Puerto Rican schools, for Americanization had been at the core of all the educational policies established in Puerto Rico during the twentieth century by the various commissioners of education before his administration. A sampling of the educational goals established by the first eight commissioners bears this out.

Victor Clark (1898-1900): To mold the minds of the Porto Rican children and inspire them with the American spirit.[125]

Martin Brumbaugh (1900-01): To transmit to the Porto Ricans the spirit and ideals of the American people and to build up an enthusiasm for the Republic.

Samuel McCune Lindsay (1902-04): To extend to Porto Rico the American principles of government, ideals of conduct and of life—to inculcate respect and love for the heroes of the past and for the history of the Republic.

Roland Falkner (1904-07): To make English the medium of instruction—to draw the two peoples closer together.

Edwin Dexter (1907-12): To have Washington, Father of the country, hold a place in the hearts of the Porto Rican children.

Edwin Bainter (1912-15): To foster the patriotic motive through military drills by Student Cadet companies.

Paul Miller (1915-21): To make students and teachers become efficient propagandists, ready and able to take part in the molding of public opinion along patriotic lines.

Juan Huyke (1921-30): To implant the spirit of America within the hearts of our children—to merge ourselves in the national life.[126]

("Porto Rico" was used in all official publications by the United States until 1932 when the U.S. Congress passed a resolution officially accepting the name *Puerto Rico*.)[127]

The use of Spanish as a language of instruction in Puerto Rican schools was extended in 1934 from the first four grades to the first eight grades and subsequently restricted again to the first six grades three years later. The insistence upon the use of English as a medium of instruction was in concert with U.S. policy in all its territorial possessions. Even as the Philippine Islands were granted independence by the United States in 1934 (to become effective ten years later) the U.S. insisted that—in the interim—public school instruction continue to be conducted in English.

Language conformity in the U.S. Mainland was used, according to some observers, to screen out undesirables from the social, educational, economic, and political processes. Knowing their only means for communication offended the society in which they lived, forced many immigrants to maintain a low profile. It discouraged them from getting involved in the social milieu. They became voiceless, invisible minorities. Imposing an English-only instructional policy on children who could not understand English essentially foreclosed them from an educational opportunity. Statutes imposing English language tests for various occupations (from lawyers to bankers) restricted access to the American economic mainstream. English literacy, required in more than three-fourths of the states as a condition for voting, further limited access to the political arena.

THE CONCEPT OF PLURALISM

Unwilling or unable to assimilate into the dominant American culture, southern and eastern European immigrants, as well as the visible minority groups, maintained ethnic communities and enclaves. They developed within-group institutions, agencies, and power structures for services in their ethnic communities. These included Little Italy, Chinatown, Harlem, *El Barrio* and many others. Movement among these communities increased as education, economic development, political coalition, intermarriage, and cooperative mechanisms were needed to cope with external forces attempting domination.

What resulted was the continual development of a different concept of nationality, accommodating and dignifying subnationalities and contributing cultures. This move toward a central tendency which defined a new kind of national ethos and cultural mosaic characterized the rise of the concept of "cultural pluralism." History chronicles the sequence of events in the early pluralist movement from 1916 when John Dewey introduced the concept in an address before the National Education Association to 1924 when Horace Kallen unsuccessfully sought to show how cultural pluralism made American life richer.[128]

While the cultural pluralists had an inspiring ideal, they lacked the ability to actualize it, for they placed too much philosophical emphasis on the whole mosaic but neglected the practical applications of the concept to the constituent pieces in the classroom. Others misunderstood cultural pluralism to mean teaching prestigious foreign languages (French, Spanish, and German) to Anglo-American students so as to instill in them an appreciation for the classics and the culture of the major non-English-speaking, all-White European nations: France, Spain, and Germany. Only token efforts, if any, were made to apply the concept of pluralism toward respecting the cultural diversity within the nation itself and promoting equality among the different national origin groups here.

FOREIGN LANGUAGE EDUCATION

The heyday for foreign language studies lasted from just before the beginning of the twentieth century to just before the First World War—with Latin, German, and French (in that order) predominating in the public high schools. Half of all the secondary students at the turn of the century were enrolled in Latin. It was believed that knowledge of this highly structured classical language helped students in the understanding of modern languages—including their own. Quite likely, however, many were taking it in preparation for the study of medicine or law. Only six percent of the nation's students were graduating from high school at that time, thus high schoolers were likely to come from elite families.

More than 83 percent of the American secondary school pupils were learning some foreign language in 1910: 49 percent were taking Latin; 34 percent were studying a modern language. Enrollment in modern languages increased gradually from before the twentieth century to 1915, when 36 percent of all high school pupils were studying a modern language: 24 percent were learning German; 9 percent, French; and 3 percent, Spanish.

Interest in Spanish was increasing rapidly. On the other hand, enrollment in German, which had been on the rise since before the turn of the century (it was second only to the prestigious—and often, required—Latin) dropped off dramatically just before World War I.

Enrollment in Latin waned steadily through the twentieth century as education became less elitist and the practical application of classical languages was found to be limited. Still, Latin remained the leading foreign language taught in American high schools. During World War I, the number of high school pupils studying Latin was approximately the same as the aggregate number of pupils taking all the modern languages offered in the nation's high schools.

The introduction of French instruction in the elementary schools of Cleveland in 1922 did not have a marked effect on the popularity of French in the nation's high schools, although it is generally considered that this was the birth of the FLES (Foreign Languages in the Elementary Schools) movement, which was to flourish thirty years later.[129] Ironically, while French was being

taught as a curricular enrichment to Anglophone students in Cleveland, the nation's schools were still refusing to use foreign languages to teach children who could not understand English. By so doing, the schools were perpetuating a social stratification which had historically given different groups in our society different levels of access to the nation's socioeconomic resources.[130]

PRESERVING NATIVE LANGUAGE AND CULTURE

A number of school systems in the United States began to provide a portion of instruction to non-English-speaking children in their native language. In 1923, the native language was used in Tucson, AZ public schools in cases where there was no other way to teach a lesson.[131] Six years later, Mexican-American children in San Antonio were helping develop curriculum materials based on their own background and experiences. In 1931 the Burbank, CA school system established a program to build Mexican American children's ability in English and improve their self confidence by starting them on group projects and gradually introducing subject areas in English.[132] There were several non-public Franco-American schools in New England between the world wars, including both elementary and secondary schools as well as colleges. There were also Chinese and Japanese afternoon schools in Hawaii and on the West Coast to teach the language and heritage of their native countries to their children. Other ethnic groups, through community organizations or religious institutions, also provided after-school classes in such languages as Greek and Hebrew so that children who were learning only English in public schools could maintain their traditional mother tongue. Several organizations were formed for the defense and promotion of foreign languages in the United States.

The period beginning with the Indian Reorganization Act in 1934—ten years after Indians were declared American citizens—did evidence a sympathetic policy which fostered the revitalization of languages, Native religions, and such aspects of expressive culture as dance, music, art, and other types of folklore.

In addition to the efforts of ethnic groups to maintain and develop their own culture, there were intercultural or intergroup education movements to teach "each about every" in efforts to promote greater tolerance and respect across ethnic and racial groups. The beginning of these efforts can be traced to ethnic studies classes begun in the late 1920s in Woodbury, NJ by a high school teacher (of Welsh extraction), Rachel Davis Dubois. That movement flourished during the late 1930s and 1940s, resulting in ethnic studies curricula in schools in Cleveland, Denver, Minneapolis, Pittsburgh, and other cities. In 1940 the Franco-Americans had 249 *mi-anglais, mi-français, à part égales*[133] French-medium schools with more than 88,000 pupils.

The 1930s began with the Great Depression. The xenophobic sentiments of the times, somewhat justified by belligerent developments overseas, were exacerbated by the bread-and-butter issue of

unemployment. Immigration to the United States plunged sixty percent in 1931 and continued to drop for the next two years to 23,000 in 1933—the lowest in a hundred years.

Needless to say, bilingual education was not a national priority. Fragmented efforts to keep the concept alive were meeting with mixed reactions in an infertile atmosphere. Even some of the research conducted to study the results of bilingualism was producing inconsistent and, *ergo*, inconclusive results.

In the early 1930s, Smith[134] and Raubicheck[135] reported research evidence showing a correlation between bilingualism and stuttering. These findings were substantiated four years later by a more intensive study conducted by Travis, Johnson, and Shover.[136] This study of children in nine public schools in Chicago revealed that there were more stutterers among bilinguals than among monolinguals (2.8 percent to 1.8 percent). It also was found that 26 percent of the bilingual stuttering group began to stutter during the time that the second language was introduced.

On the other hand, McCarthy[137] and Beckey[138] were among several researchers who found that bilingualism was not a serious handicap in speech development. Other factors (i.e., the speech environment), rather than bilingualism, were noted to be the most significant causes of poor speech development. (Jensen, in examining the results of the Travis-Johnson-Shover study 25 years later, pointed out that although this evidence suggested some correlation between bilingualism and stuttering, the investigators hastened to assert that the causal connection had not been necessarily established.[139])

As early as 1937, research studies denied any ties between bilingualism and low mental development. Arsenian, in his study of the relationship of bilingualism and mental development, concluded that "bilingual children as compared with monoglot children of the same age and environment were neither retarded nor accelerated in their mental development."[140]

Among the most noteworthy findings in support of bilingualism were those derived from studies conducted by Carrow and Spoerl. Carrow reported relatively no detrimental effects on the bilingual child's ability in spelling, total verbal output, clause length, degree of subordination, or in complexity of sentence structure.[141] Spoerl reported that at the college level, bilingual students had no significant language handicap and even possessed some advantages.[142]

Bilingualism, however, was never really valued by American society. By 1934, less than twenty percent of all secondary school students in the United States were studying a modern language and only sixteen percent were studying Latin. Eleven percent of all high schoolers were enrolled in French and six percent in Spanish, making these the two leading foreign language attractions. That ranking of language popularity held true during the period between the two world wars: (1) Latin, (2) French, and (3) Spanish.[143] German, which had been the most popular modern language before the turn of the century, was now practically out of the picture.

RESTRICTION OF FOREIGN LANGUAGES

The anti-German sentiment prevailed during the period between the two world wars. Most high school and college administrators were reluctant to add German courses to the curricula of their institutions because German had become the "barbaric tongue of a race of warriors." This notion was given credence in the 1930s by the German-American Bund, a neo-Nazi outfit, whose loyalty to the United States was open to question. Although the number of New Jersey members was not too high, New York Bundists set up two camps in New Jersey.[144] Yet, in the midst of this hostile environment, the first *Deutsche Sprachschule* (German Language School) in New Jersey was founded by the congregation of the Emanuel Methodist Church of Newark in 1934. With the entrance of the United States into World War II, the school immediately—and on its own initiative—suspended classes, which were not resumed until 1950.[145]

Bilingual education in the United States was officially restricted from before World War I to after World War II almost to the point of extinction. The ban was enforced not only against German-speaking people, but against all language minorities.

Japanese children in Hawaii had been attending two schools each day: the regular public schools where they studied the standard curriculum, and special schools where, after hours, they learned the language of their parents' native land. But the Pearl Harbor attack forced the closing of these language and culture schools. Ironically, many of the former students and teachers of these condemned schools put their bilingualism to use during World War II by serving as interpreters in the U.S. Armed Forces.

Most Chinese- and Japanese-American schools, which had also come under heavy criticism before World War II, were discontinued after President Roosevelt signed Executive Order 9066 in 1942 authorizing the mass roundup of 115,000 *Nikkei* (Japanese-Americans) from their homes on the West Coast. The evacuees—two-thirds of whom were *Nisei* (natural-born American citizens of Japanese parents)—were imprisoned without trials in what has been called "the worst single wholesale violation of Civil Rights in U.S. history."[146] They were kept in concentration camps throughout ten different states for reasons of "national security."[147] (Neither Germans nor Italians—and certainly no Americans of German or Italian descent—were interned, except diplomats and clearly-defined enemy agents.) Records show, incidentally, that the decision for mass evacuation was urged by California's Attorney General Earl Warren, who became governor of the State that same year. Warren, who twelve years later would write an important chapter in the history of American Civil Rights through his ruling as Supreme Court Justice in *Brown* v. *Board of Education*, reportedly could not determine which of California's Japanese-Americans could be trusted.[148] Many other prominent individuals and organizations spoke out against the Japanese. These included Chambers of Commerce, Farm Bureaus, and American Legion Posts. In the midst of this wholesale

xenophobia, Japanese businesses discontinued using the Japanese language with their customers and many Japanese families used only English even at home. Japanese schools remained shut for the duration of the war, and only a few survived afterwards. Yet, many Japanese-Americans such as Prof. Henry Tatsumi contributed greatly to the war effort by teaching the Japanese language to American officers in a school set up for this purpose in Boulder, CO. And, incidentally, no evidence of treason or sabotage by Japanese-Americans was uncovered even after careful investigations by military authorities.

In reaction to the events after Pearl Harbor, in 1943 legislation was passed in Hawaii attempting to regulate private foreign language schools by setting age limits before which one was prohibited from studying a foreign language. This was all part of the effort to insure proficiency in English before any other language was learned. In fact, the Nationality Act passed in 1940 required spoken English for naturalization.

MEXICAN-AMERICAN PUPILS IN ANGLO-AMERICAN SCHOOLS

Language restrictions were also applied against Mexican-Americans. Spanish-speaking persons had been counted for the first time by the 1940 Census, although only a five percent sample was taken. Ten years earlier the Census had identified "Mexicans" (persons of Spanish colonial descent) as a racial classification.

The shortage of workers caused by the Second World War brought about the Bracero Program, established in 1942 to bring short-term Mexican contract laborers to the United States, primarily for agricultural work. (The program lasted more than twenty years.) The braceros were poor, often illiterate, and could not speak English. This added to the already-negative image Mexican-Americans had in the United States and greatly increased discrimination against them.

Unlike the case of German-Americans, the violation of the civil rights of Mexican-Americans was not prompted by war with the ethnic group's homeland but rather because of their different racial background. Presumably they would have to suffer extensive social discrimination similar to that against Blacks. And suffer they did.

In the fifty-year period following the First World War, countless studies documented the educational plight of the Mexican-Americans in the United States. Typically, these reports noted that most Spanish-surnamed children were functioning on the average of three years below their Anglophone counterparts, their dropout rates were twice as high as Blacks, and their parents were earning one-half the per capita income of Anglo-Americans. Some school districts had Mexican-only schools.

Recommendations included an end to segregated schools for Mexican-American children, improved teacher training, and more efficiency in teaching English. These reports and recommendations,

however, fell on deaf ears. The great majority of Spanish-speaking children who were in school received no special consideration, despite their difficulty in learning English. No overall program was developed at that time to aid any particular language minority group. Whatever efforts were made in response to the needs of these children were improvised, most often directly in answer to specific problems.

Cordasco cited two examples of educators who built on the cultural strengths that children brought to the school. One was District School Superintendent Julia Richman, whose programs represented the first evidence of attempts by schools in New York City to respond systematically to the problems of teaching children of limited or no English-speaking ability. The other was Leonard Covello, a high school principal from 1934 to 1957, who was himself an Italian immigrant. But Cordasco was also quick to point out that both of these educators were the exceptions, not the rule.[149]

WORLD WAR II EXPERIENCE

The inability of the United States Armed Forces to communicate with the nation's allies or other nations in any language but English during World War II was not only embarrassing, it was dangerous. The urgency of the need to speak more than one language surfaced time and time again during the campaign.

1. Only a few American soldiers were able to interrogate prisoners or understand captured documents. Sometimes, by the time they got the prisoners or the documents to an interpreter, the information was stale and useless.

2. Many could not understand road signs during critical troop movements nor simple street or building signs in captured towns. (While it is true that the enemy would occasionally switch signs around to confuse and disorient our troops, the switch would have been easier to detect if the meaning of the signs was clearly known. Because of their foreign language illiteracy, our soldiers were often unable to plant their own false signs, broadcast from captured radio stations, or otherwise deceive the enemy.)

3. Local civilians, sympathetic to the United States, would offer critical intelligence data about enemy positions, strength, and movements—but our servicemen could not understand the information.

4. G.I.s could not even communicate with some of our allies who spoke French, Russian, Spanish, and other major languages.

5. While it was relatively easy for many enemy soldiers (who spoke English fluently) to infiltrate American troops, it was practically impossible for Americans to do the same, for few spoke the language of the enemy and rarely did they speak it well enough to pass.

The value of knowing another language was dramatized when, after the Japanese had consistently broken all U.S. military codes in the Pacific combat zone, Americans began using the little-known,

unwritten Navajo language as the medium for communication by radio operators. Four hundred Navajo marines, who volunteered for the mission, were entrusted with the responsibility of transmitting the military's top battle plans. They were assigned in pairs to every unit in the Marine Corps. Messages were relayed in spoken Navajo and translated into English by a Navajo receiver. These Navajo "code talkers" baffled the Japanese (who never broke the code), thereby saving countless American lives, contributing in no small way to the success of critical military operations, and mending the dangerous gap in our national security—by speaking a language they had been forbidden to speak in many parts of their own country.[150] Mohawks served the same purpose in Gen. Patton's Third Army.

Many other instances are known which prove the value of knowing another language. The few U.S. servicemen who were fluent in German, Italian, or Japanese were considered premium personnel and often were the most important people in their units—understandably.

The decline of modern foreign language studies, which started just before World War I, had continued during the period between the two world wars and did not end until 1948 when only fourteen percent of the American high school students were enrolled in the study of modern languages. In fact, an all-time-low 22 percent of all secondary students were studying foreign languages. Spanish, whose popularity was growing steadily, had reached parity with Latin, whose enrollment was still declining. Each claimed eight percent of the foreign language students. French was now third and German was still unpopular.

Made suddenly aware of the danger of linguistic homogeneity, the U.S. government quickly organized the Army Specialized Training Program for the purpose of teaching selected military personnel by the most intensive methods how to understand and speak other languages.

RECOVERY OF BILINGUALISM

After the war, large numbers of our servicemen who had personally (1) experienced linguistic handicaps and (2) witnessed linguistic pluralism abroad returned home from Europe and Asia convinced that our schools should modify their language policy for the future generation. The impetus for change came from several directions.

1. In the early 1950s, U.S. Commissioner of Education Earl J. McGrath actively promoted the FLES movement, which had begun in Cleveland thirty years earlier. The program was extended to cities in the South where Spanish instruction was introduced as a sign of "hemispheric solidarity." The new national posture toward foreign language instruction combined with the recognition of the needs of linguistic minorities signaled the beginning of the recovery for bilingual education from the decline suffered since the turn of the century.

2. The Foreign Language Program of the Modern Language Association, with the assistance of the American Council for the Teaching of Foreign Languages, took the lead in encouraging the development of foreign language programs in secondary schools and colleges.

3. Pedagogical advances, which in large part owed their inspiration to the successful Army Language Schools, profoundly affected foreign language teaching methods. The methodology for teaching English as a second language was also greatly influenced by the development of the new audiolingual approach in language instruction.

4. On another front, the Ford Foundation helped Columbia University establish a Russian Institute and helped Harvard University set up a Russian Research Center to promote the study of Russian history, politics, economics, and literature.[151] Incidentally, a Russian classroom was set up after World War II at Reed Farm, a temporary home for Russian displaced persons.

5. On still another front, returning veterans who were members of minority groups were newly-sensitized to their position as second-class citizens. A firm determination to leave a legacy of hope to their children, which coincided with the changes in attitude toward minorities that began to be felt in the larger society, led to the formation of organizations for the purpose of launching literacy and educational improvement campaigns. One typical result was the "Little Schools of the 400," preschool classes set up to help Chicano children learn the four hundred most common words of American English in preparation for entering the public school system. This was a first step in recognizing the needs of linguistic minorities in the United States in the twentieth century.

It would take another decade and additional national security threats before the nation would get serious about encouraging foreign language learning in our schools. It would take two decades for it to get serious about helping language minorities succeed in the public schools. Meanwhile, the emphasis on English would continue.

In 1950 a law was passed in Louisiana mandating English as the language of legal notices, business records, instruction in the public schools, and juror qualifications—although contracts executed in French were recognized as valid. In the same year, amendments of the 1940 Nationality Act required English literacy (reading, writing, and speaking) as a condition for naturalization. (People over fifty years of age who had been residents of the U.S. for twenty years were exempted.)

National demographic developments, however, were edging the nation closer to the need for a redefinition of its language policy. On the basis of a twenty percent sample, the 1950 Census identified 2.3 million Spanish-surnamed people in Arizona, California, Colorado, New Mexico, and Texas. These five southwestern states accounted for more than eighty percent of all persons with Spanish

as their mother tongue in the United States. This was the first year the Census used identification by Spanish *surname*, although there was confusion with surnames which were identical to Spanish surnames but belonged to other ethnic groups (Italian, Portuguese, even English). The name "Martín," for example, had identical spelling as "Martin." In addition, a woman who was not of Spanish origin or descent could gain a Spanish surname through marriage. Yet a Hispanic woman could, likewise, lose her Spanish surname through marriage.

5 *The Puerto Ricans*

AROUND THE MID-TWENTIETH CENTURY, the nation's large city schools enrolled second and third generation children of European ancestry as well as the grandchildren and great grandchildren of African slaves. The schools had not conquered the problems of these children's parents and grandparents; they had merely survived them. Immigration had ebbed for fifteen years prior to the end of World War II. Not unlike the rest of society, the schools had assumed the posture of waiting for things to "normalize."[152] The remaining immigrant school children would either learn English or grow out of school and the schools could get on with the business of teaching. With these utopian expectations, then, it must have come as a rude surprise when immigration resumed in 1946—including 400,000 displaced Europeans who had been victims of the circumstances of war. The Northeast, especially the mid-Atlantic states, were particularly impacted by two migratory groups—both of whom were American citizens, minorities, and very poor. One consisted of southern Blacks, who had been migrating north since the Reconstruction. Their children spoke English and thus presented no particular problem to the schools of their adopted cities—at least not a linguistic problem. The other group, however, was migrating en masse for the first time and their children were different—culturally and linguistically.

These newcomers were different in many ways from previous groups arriving at these shores. For one thing, they did not land at our shores (literally) but at major airports, constituting the first airborne mass migration in history. They were coming from this hemisphere: from Puerto Rico, a small island in the Caribbean which had been a U.S. territory for half a century. Consequently, they were not immigrants in the technical sense. They were U.S. citizens (even before their arrival here) pioneering a new frontier, as other Americans before them during the westward expansion.

Yet they resembled immigrants of the past in that they were very poor and uneducated, spoke no English, and their work experience had been limited to agriculture and unskilled labor. They shared a willingness to work (no matter how menial or backbreaking the jobs), dreams of prosperity, and high hopes for their children. However, early immigrants had arrived during agrarian times when land was plentiful (free or very inexpensive) so they could live off their farming skills. Others had arrived during industrial times when the physical ability and willingness to work were sufficient

for economic survival, and entrepreneurship provided a viable approach to financial success.

By the time the Puerto Rican migration began, the land was occupied by sprawling cities. Whatever farmland was left was private property and the Puerto Rican agricultural experience (mostly with tropical crops) had limited application in the Northeast. Puerto Ricans were arriving during the post-industrial era—at a time when automation was replacing manual labor: the dawn of the age of the computer. High academic, vocational, and technological skills were now essential requirements for an adequate lifestyle. In addition, these newcomers would have to compete against returning veterans (who, rightfully, were given preference), displaced persons (such as Hungarians, Russians, and Ukrainians), and southern Blacks migrating to the North.

Puerto Ricans differed from previous immigrants in another important way. Because of liberal racial integration on the island, a great many of them were swarthy-complexioned. In a color-conscious society, this would seriously hinder their assimilation into the American "melting pot."

LACK OF EDUCATIONAL RESOURCES IN P.R.

Many children coming from Puerto Rico to U.S. Mainland schools suffered from the double handicap of unfamiliarity with the English language and lack of previous educational experience—sometimes approaching complete illiteracy. Indeed, 29 percent of the adult population of Puerto Rico in 1947 was illiterate compared to three percent in the continental United States.[153]

Education was not compulsory on the island at that time simply because the government could not provide schools for everyone.[154] From 1940 to 1945, for example, Puerto Rico's schools had been able to accommodate only half of the school-age population. Of the children entering school each year, half left during the second grade—after only a year and a half of instruction.[155] On the average, 85 percent had dropped out before twelve years of school. Fewer than eight percent between the ages of 19 and 22 were attending a university in 1949. It was not until 1957 that the Commonwealth was able to offer a basic elementary education for all the children of elementary school age. Adding to the island's inability to provide a meaningful education to its citizenry, the government vacillation over language policy served to confuse several generations of Puerto Rican students.[156]

LANGUAGE POLICIES IN PUERTO RICO

The teaching of English as a second language had been a factor of great importance in the history of Puerto Rican schooling since the United States took over the island at the turn of the century. It was clear that the need for English on the island would not be satisfied by giving superficial instruction in the language to a lim-

ited number of students. The question facing the school system had been how to create and maintain a situation in which every Puerto Rican could acquire functional bilingualism—that is, the ability to add to the Spanish vernacular a mastery of English which one could use efficiently for understanding, speaking, reading, and writing. It took a great deal of experimentation—mostly of the trial and error variety—to define a Puerto Rican policy of instruction that would translate the desired American philosophy of education into Puerto Rican terms and needs. There had been no less than seven distinct language policies for the teaching of English in the public schools of Puerto Rico during the first half of the century. A policy formulated in 1948 re-established Spanish as the medium of instruction in all grades with English taught as a required foreign language.

Since English instruction in Puerto Rico began in first grade and increased gradually, the extent of exposure to English depended upon the student's grade level. Obviously, children who had not been to school yet had no exposure to English.

Yet it was not much better for older children who had enjoyed the benefit of substantially more English instruction for, as a rule, the teaching of English was handled by native speakers of Spanish, most of whom had never been off the island and who could not properly model the language they were trying to teach. The extent of instruction was limited to less than one hour per day and the environment did not provide the opportunity to practice the new language. Radio and newspapers were in Spanish, the students' families and friends spoke Spanish, and the school's language was Spanish. Even English was taught in Spanish. (The vocabulary, of course, was English; but grammatical concepts were explained in Spanish.)[157]

PUERTO RICAN STUDENTS IN U.S. MAINLAND SCHOOLS

When they migrated, Puerto Rican students discovered that the English they had been taught on the island schools bore little similarity to the brand of English spoken in the States. Written English was essentially the same, but the pronunciation, inflection, and cadence of spoken English here came as an unpleasant surprise—indeed a shock. The situation was exacerbated by the pressure of the speed at which "real" conversations normally flow. Learning techniques (isolating each word heard, decoding it, and quickly rearranging the syntax to figure out meanings) did not work here. Anglophones did not wait for each phrase to sink in and be understood by Puerto Ricans before proceeding with the next. Neither did impatient listeners tolerate English mispronounced haltingly one . . . word . . . at . . . a . . . time. Television was not yet available to provide a nonthreatening model. The frequent encounters with slang, dialects, and other such lingo exacerbated the problem. Students who had learned to say "I am not doing anything" very slowly would

be devastated by the rapidly-fired "Ah ain't doin' nut'n."

Missing was the translator who would come to the rescue whenever they were stuck; a role that had been played by teachers on the island. Puerto Rican students in United States Mainland schools relied heavily on their textbooks for learning vocabulary, grammatical patterns, and subject matter. Class participation was virtually impossible. Testing was a ludicrous experience, for tests purporting to measure intelligence or comprehension and retention of content matter were merely reflecting the students' English deficiencies. It is a matter of record that during the 1950s almost every Hispanic student in the States who was non-English-speaking was labeled "handicapped," a disproportionate number of them were placed in classes for the mentally retarded, and the vast majority dropped out of school.

INSTITUTIONAL RESPONSES

American schools in the fifties used five basic approaches to handle the children of these new migrants: the "sink or swim" approach, the "downgrading" approach, the "slow learner" approach, the "language-osmosis" approach, and the "vocabulary-building" approach.

1. *Sink or Swim Approach*—These schools were totally unprepared for the newcomers and, in the absence of guidelines to the contrary, merely provided these students with the same facilities, textbooks, teachers, and curriculum as was provided to everyone else. The onus was on the students to survive the school experience. The extent of assistance provided Puerto Rican students under this approach was limited to pairing them with somewhat senior Puerto

Rican "big brothers" who would try—to the extent of their own abilities—to channel the newcomers through the complexities of language and school organization; or to assigning an Anglophone student to "monitor" them (make sure they did not get lost while changing classes between periods, make sure they had their books opened to the right page); or to voluntary tutoring by a teacher who had studied Spanish in college.[158]

2. *Downgrading Approach*—Many school districts tried to avoid problems by arbitrarily placing all Puerto Rican transfer students one or two years behind their grade level. Apparently these educators were diagnosing a problem resulting from a language barrier as a problem stemming from lack of intelligence—for if a child does not understand English, it does not matter if the speaker is a ninth grade teacher or a seventh grade teacher anymore than it matters if the teacher whispers or shouts. The consequences of this practice were overage students fumbling in the midst of children who were two or three years younger than they—adding insult to injury.

3. *Slow-learner Approach*—This approach, common especially where the density of Hispanic children was low and the school authorities were less knowledgeable about the problems of such children, was followed by many educators who had not considered or who had rejected the possible relevance of linguistics to the problems of these students. In other words, the problem had been perceived to be not one of linguistic and cultural differences but again a basic lack of intelligence. On the basis of standardized but culturally-biased tests administered *in English*, Hispanic children's intelligence was determined to be low. Consequently, they were placed in low-achievement groups where the level of expectation by both the school and the pupils themselves combined to realize a self-fulfilling prophecy. Under these circumstances, Hispanic children received little to challenge their intelligence and gave little in return. Too often they remained in the low-achievement class year after year, with a social promotion now and then, until they were old enough to join the ranks of the unemployable.

In cases when there was a number of Hispanics in a school, they may have found themselves isolated from the main instructional program, either as a result of *de facto* segregation or as a result of separate classes set up to deal with special problems but without special and relevant resources in personnel and materials. The school's goal of maintaining standards was thus supported by protecting the regular students from the watered-down curriculum of the low achievers.

4. *Language-osmosis Approach*—Another approach to dealing with the educational problems of Hispanics was one of osmosis. Those using this approach, while recognizing the language problem, believed that children would absorb the new language by mere exposure to it.

Neither the slow-learner nor the language-osmosis approach did anything to correct the language problem per se. The former

denied the problem; the latter denied the solution. In most cases, incidentally, these two approaches could be found in combination. Children were expected to learn by osmosis; when they failed to learn, they were classified as slow learners and placed accordingly.

5. *Vocabulary-building Approach*—This approach, which acknowledged a linguistic problem and attempted to resolve it, flourished nationally in the 1940s and 1950s under the sponsorship of educational leaders in the Southwest such as Lloyd S. Tireman.[159] Programs following this approach were often referred to as prelinguistic because they focused on vocabulary items as the fundamental building blocks of language. Inherent in such word-centered programs were the problems of expecting children from another language background to build sentences in English without a syntactic framework into which they could put the words they had been learning. This approach commonly failed to distinguish between the need for vocabulary development of children who spoke English as their first language and the linguistic needs of non-English-speaking children, which included not only vocabulary but also the mastery of a new language system.

SCHOOLS UNPREPARED

Prevailing attitudes, values, priorities, and other circumstances of the times permeated and, of course, altered significantly the preceding models of schooling. At that time, for example, teacher preparation institutions in the United States were not training teachers to educate "foreign" pupils. American teachers were being trained to teach American pupils who shared their language, cultural lifestyles, and values. When pupils could not speak English, teachers "logically" felt that it was hopeless to try to teach them.

Cultural clashes contributed to a great deal of misunderstanding. When children avoided eye contact when questioned, teachers sincerely believed the children were lying. Teachers had no way of knowing that the children had been taught to lower their eyes—as a sign of respect—when speaking with their elders.

If the teachers requested the parents to visit the school and the parents declined, the teachers naturally believed that the parents were not interested in their child's schooling. Teachers here were unaware that in Puerto Rico parents delegated the education of their children to the professionals. They trusted the teachers and did not wish to "interfere" with the work of the schools.

Teachers lacked the skills and schools lacked the resources to help these newcomers. Textbooks, especially history and social studies texts, neglected to identify any positive contributions by Hispanics to the shaping of our nation, to the sciences, or to the arts. A comprehensive study by the American Council on Education found textbooks in use throughout the United States in 1949 to be distressingly inadequate, inappropriate, and even damaging to minority groups. The study observed that the Spanish-speaking people of the United States were largely ignored; if not, they were sometimes

dealt with in terms likely to intensify prevalent stereotypes.[160]

Obviously, not all the difficulties of Puerto Rican students were related to the schools. Many were deeply rooted in the conditions of abject poverty in which they lived. Parental assistance normally available to most middle-class children, such as school readiness activities, help with school homework, trips, books, and occasional intellectual conversations, were lacking in the homes of the majority of Puerto Rican children at that time. Often a teenage brother or sister was found rearing younger members of the family while the father, mother, or both worked. Many Puerto Rican children were inadequately clothed to withstand the cold winters to which Anglo-Americans were accustomed. (Temperatures below seventy degrees were rare in Puerto Rico.) Some were wearing shoes to school for the first time.[161]

PUERTO RICANS WERE DIFFERENT

Other differences between mid-twentieth century Puerto Rican migrants and European immigrants of the past, which were not immediately apparent when Puerto Rican migration began, were manifested during the first decade of migration. They offer some insight as to why Puerto Ricans were unable or unwilling to assimilate.

1. The arrival of Puerto Ricans was somewhat untimely. On one hand, they came with agricultural experience to a technological job market. As Betances often put it, "They were confronting a computer with a machete!"[162] On the other hand, civil rights and affirmative action were not yet national priorities.

2. Unlike immigrants of the past, Puerto Ricans did not come to the States as aliens but as full-fledged American citizens. Thus, an important incentive to learn English—as a requirement for citizenship—had been removed.

3. Puerto Ricans represented a group less separated in time and distance from the language and customs of their homeland. The proximity of their island combined with the ease of modern transportation enabled them to migrate back and forth as often as they wished. This "circular" migration prevented them from completely shedding their lifestyles, values, culture, and language. (Most came here with the hope of returning to the island some day.)

4. The half-century relationship with the United States had not erased four centuries of Hispanic culture. Spain was still referred to—as it is in the rest of Latin America—as the "mother country." Old Anglo-Spanish disputes, Protestant-Catholic clashes, and the "black legend" syndrome—smoldering for ages—were being rekindled by the friction of mutual disdain. Unwelcome in their new environment, Puerto Ricans clung to their language and culture in order to maintain a sense of community and to keep from being annihilated socially and spiritually. Their linguistic loyalty and cultural tenacity, however, aggravated the problems between their children and the schools.

5. While the U.S. Mainland was a melting pot of White ethnics, Puerto Rico was a melting pot of the three major races: Caucasoid, Negroid, and Mongoloid. In color-conscious America, this made every Puerto Rican "suspect," despite the fact that eighty percent of the population of Puerto Rico was officially classified as Caucasian by the U.S. Census. The vast majority of Puerto Ricans here were perceived as non-White and were not readily permitted to assimilate.

6. The Latin culture was not as competitive as the Anglo. This was especially true of the lower socioeconomic level. Consequently, Latino children were not "pushed" by their parents to achieve and to succeed. Undereducated, poor, and unacquainted with the complexities of the nation's political machinery, the parents were unable to influence the bureaucracy into responding to their children's needs. They accepted the lack of educational opportunity as a logical consequence of their poverty and of their children's inability to function in English. Faulting themselves for the failure, many children often internalized the prevailing teacher expectations of them—a phenomenon which would later result in a "Pygmalion" syndrome.[163]

6 The ESL Period

A SERIES OF UNRELATED EVENTS occuring during a five-year period generated a chain of institutional reactions which in turn produced important windfall benefits for all non-English-speaking students in the United States.

THE BROWN DECISION

After 67 years of a legally-sanctioned separate-but-equal policy,[164] the U.S. Supreme Court ruled in 1954, in the case of *Brown* v. *Board of Education*, that racially-based school segregation was unconstitutional. The High Court stated the basic principle of equal educational opportunity embodied in the Equal Protection Clause of the Fourteenth Amendment—which had been enacted after the Civil War essentially to protect the newly-acquired freedom of the Black population.

> Today education is perhaps the most important function of the state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. Children cannot be successful in life if they are denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, *is a right which must be made available to all on equal terms.*[165] (Emphasis added.)

The *Brown* ruling, of course, did not mention Hispanics. The case had been initiated in an area where the Hispanic population was insignificant and was litigated at a time when Hispanics were not yet a national concern. However, the Court said that the decision applied also to "others similarly situated." Cases challenging the segregation of Hispanics had preceded *Brown*, although these had not reached the High Court. The very next year after *Brown*, a court permitted the segregation of Hispanics for instructional purposes only if *each child* in the group was found through testing to have a "language impediment."[166]

Without a doubt, the 1954 ruling in *Brown* v. *Board of Education* ushered in a new era in American Civil Rights and paved the way for subsequent legislation that would create programs for the disadvantaged in the nation's schools. Other national and international events of the 1950s influenced this nation's posture on foreign languages, its relationship with other countries, and its treatment of its linguistic minorities.

A LULL ON LINGUISTIC HOSTILITIES

American prestige was rudely jolted by the launching of Sputnik in 1957, a feat perceived globally as evidence that the United States was dragging behind the Russians in the race for world supremacy in aerospace. Sputnik led to the re-evaluation of the work of the schools and to the passage of the National Defense Education Act in 1958. NDEA placed emphasis on math, science, and foreign languages—the three areas in which Russian education was seen as superior. It promoted attention to the processes of second language teaching and learning and emphasized the retention and expansion of our foreign language resources.[167] In addition, the Act provided financial assistance to minority group students who wished to attend college and specialize in mathematics, science, or foreign languages; and it funded summer training institutes for foreign language teachers. It also provided funds for Soviet studies at such universities as California (Berkeley), Illinois, Indiana, Michigan, Ohio, Stanford, and Washington. Sputnik apparently also generated some interest in the teaching of Russian and Italian in American high schools. Interest in learning these languages, on the other hand, was not significant.

At least two other major Federal programs also involving multiple-language training were legislated in the sixties. Both originated out of concern for international understanding and cooperation, in contrast to the Sputnik-motivated concern for national security. One was the Mutual Education and Cultural Exchange Program of 1961 (the Fulbright-Hays Act); the other was the International Education Act of 1966. Congress in 1961 declared the purpose of its Cultural Exchange Program to be "the strengthening of ties uniting us with other countries, the promotion of international cooperation, and the development of peaceful, friendly relations between the United States and other countries." The 1966 Congress, in enacting the International Education Act, found knowledge of other countries to be of the "utmost importance in promoting mutual understanding and cooperation between nations." The Act entrusted the Federal Government with the responsibility of assisting in the development of resources for international study and research, and trained personnel in academic and professional fields.[168]

None of these legislative acts, however, succeeded in meeting the national need for an enlightened citizenry, versed in international affairs, and fluent in at least one other language. The purpose of NDEA quickly fell out of public view. Institutions of higher education tended for the most part to use NDEA funds as another source of miscellaneous financial aid for needy students. Political forces during the initial stages of negotiations over NDEA had not seen clear to include provisions for a massive public education effort. The actual need for national dedication to foreign languages and international studies was played down. Congress found institutions ready to accept additional revenues, but over-

estimated public awareness of NDEA's purpose and need.[169] It was believed that students were motivated more by the fact that a foreign language was a requirement for college admission than by the intention of putting the new language to practical use.

Even some educators were skeptical about the serious use of a second language in the classroom. Madorah Smith, who had correlated bilingualism to stuttering a quarter century before, was still attributing more negative effects to bilingualism. Smith, in her study of preschool children of Chinese ancestry in Hawaii, noted that the bilingual children in her study, at the time of entering school, were at about the level of three-year-old monolingual children in language development.[170] Smith's findings tended to suggest that a child could not learn two languages equally well, for the linguistic elements in one of the languages would interfere in the development of the other.

Alaska and Hawaii became states in 1959. The realization that these *states* were in other parts of the world far away from the contiguous states of the Union—one was, in fact, overseas—served to broaden the provincial view long held by many Americans regarding their nation. The fact that these new states had significant populations of culturally-different Eskimos and Polynesians (Hawaii, incidentally, had a White minority), helped to dissolve some of the ethnocentrism of Mainland U.S. citizens. That same year the 1943 law regulating private foreign language schools in Hawaii was dropped. At least a thousand private ethnic schools were using languages other than English as media for instruction in the U.S. Mainland.

By 1960 the Census was documenting (based on a 25 percent sample) the existence of 3.5 million Spanish-surnamed people in the five southwestern states—an increase of more than 52 percent over the 1950 figures. The new data showed that Hispanics constituted 28 percent of the population of New Mexico, 15 percent of Arizona and of Texas, and 9 percent of Colorado. The largest Hispanic population was in California, where almost 1.5 million were counted—an increase of 88 percent above the 1950 Census.

Although not included in the national count of Hispanics, there were approximately 600,000 Puerto Ricans living in the New York area circa 1960. A demographic profile of the Puerto Ricans who were migrating to the states at the end of the 1950-60 decade would have portrayed the following:[171]

1. More than half were in the 15-24 age group; more than 85 percent were under 35.
2. Three-fourths had completed eight years or less of school; one-third had attended high school.
3. Most were unskilled or semiskilled; more than half had no previous work experience.
4. Most were unable to speak English.
5. Their median family income in the U.S. Mainland would be only 71 percent of the national median income.

The educational level was worse for American Indians, incidentally; sixty percent of adult Indians had less than an eighth grade education.[172]

THE CUBAN INFLUX

Many observers believe that, of all the historical events of the decade, the one that would have the greatest impact on linguistic minorities in the United States—especially Hispanics—was the Cuban exodus triggered by Fidel Castro's *coup d'etat* in 1959. For while many Puerto Ricans, Chicanos, Native Americans, and Asian-Americans had long chafed under the intransigent monolingualism of American schools, their economic, social and political condition of powerlessness had effectively precluded any real success in altering this pattern. As a strange coincidence, when Cuban exiles began to arrive in Miami (and relocate elsewhere) schools all around the country began cranking out special programs to address their needs and those of other Spanish-speaking students.

Josué González explained that the surge of educational services at the crest of the Cuban influx was no coincidence. He listed at least five differences between Cubans and the indigenous Spanish-speaking constituency which would account for the dissimilar institutional response to the needs of the two groups.[173]

1. Most Cubans were from the middle and upper-middle classes. They had a strong literary tradition and were not unaware or reticent about demanding adequate services from social and political institutions. Additionally, they were politically cognizant of the workings of institutions and knew how to "negotiate" to the benefit of their children to a degree that was not then shared by other national origin minorities in the United States.

2. Because most of the early refugees came from the professional class, they were able from the onset to offer the services of trained teachers and other educational personnel from their own ranks. In cases where certification or other credentialing obstacles existed, the Cuban Refugee Act offered financial assistance on a scale not then (or since) available to other groups.

3. Politically, American institutions responded to the educational needs of Cubans as would befit transient refugees. Thus, their needs were viewed as temporary (ostensibly, the Cubans would all be returning to Cuba as soon as the Castro insurrection was put down), unlike those of the Puerto Rican or Chicano who presented more permanent or at least long-range potential for causing unwanted change. (As it turned out, however, Cubans were not able to return home and became permanent residents—and citizens—of the U.S.)

4. As victims of a Communist state, the refugees were welcomed to capitalist shores in a manner which would demonstrate to the observing world that our society would go to any length to harbor political exiles who share our political ideologies. (Other

minorities were still secrets well kept from the critical eyes of other countries.)

5. Because most of the early Cuban refugees were of predominantly European stock, racism was not a significant factor in preventing their incorporation into the American mainstream.

In response to the influx of Cuban refugees, Dade County (Miami), FL established a program of Spanish for Spanish-speakers (Spanish-S) in 1961. In addition, the school system began to offer elementary school classes in Spanish supplemented by intensive instruction in English as a Second Language (ESL). The plan was for students to spend about one semester in this special program, after which time they would enter the regular school programs while continuing to be offered Spanish.

THE TEACHING OF ENGLISH AS A SECOND LANGUAGE

Unlike the situation in Puerto Rico, English was not a required subject in Cuban schools. While most Puerto Rican migrants could seldom speak English because they were unschooled, Cuban exiles, albeit educated, were unacquainted with the language upon their arrival here. Their children, likewise, spoke no English whatsoever. The first order of business, therefore, was to teach them English as a second language by the most expedient way. This constituted the first formal attempt to help non-English-speaking students in the twentieth century. Three types of programs were used initially: grammar-translation, structural audio-linguistics, and descriptive audio-linguistics.

1. *Grammar-Translation Method*—One of the first methods used, which had been popular before the 1950s, was the "grammar-translation" method. Grammar rules and exceptions were taught by means of elaborate explanations. Students had to memorize these rules and exceptions, plus lists of words with their gloss in the native language. Translation was employed to test students' comprehension and assimilation to grammar and vocabulary. Students had very few opportunities to learn oral language.

Teachers seemed to be more preoccupied with proper grammatical construction, spelling, and verb conjugation. Thus, students were better prepared for reading, where they had all the time they needed to analyze a sentence, translate it literally, and look up the meaning of new words in a dictionary. They were seldom trained to think in the language and to interact with native speakers.

This had been the traditional methodology employed in teaching Latin and Greek. When needs for learning French, Spanish, German, and other modern languages arose, this classical method of teaching was carried over to satisfy the intellectual desires of the "mental faculties" school of thought and the traditional humanistic orientation, which placed emphasis on literature.

The major goals of the grammar-translation method were to

prepare students for exploring the depth and breadth of the second language's literature and for a greater understanding of the first language. The method was more suitable for literate adults and high school students whose main interest was in the *belles lettres* of the second language.

Language teachers later felt it should not have been used to teach young children whose fluency in a second language was required to achieve educational goals and social acceptance. The grammar-translation method was later discredited by modern linguists on two grounds: (1) its emphasis on the written form of the language, and (2) its teaching of grammar as prescription for "correct" language.

2. *Audio-Lingual Approach (Structural)*—As a result of the development of new paradigms in linguistics and psychology, a rather radical approach revolutionized the field of second language teaching in the 1950s. The "audio-lingual" movement was a reaction against the grammar-translation method, although its roots could be traced back to the 1880s in Europe.[174] It was developed by structural linguists who were influenced by behavioral psychology. The most recent behavioral school, stimulus-response psychology, was elaborated by Skinner.[175] He held that learning is the result of external factors which select stimuli and reinforce responses until desired behavior is conditioned to occur. In other words, the processes of learning are viewed as the formation of the association of stimulus and response under reinforcement conditions. Language learning is no different from any other learned behavior which involves complex skills. Thus, it is mechanical habit formation; and second language learning is the formation of a second set of speech habits. This theory rejected the mentalistic theory of learning which held that the mind is the center of any learning process.

Structural linguists working with unwritten Indian languages prior to the 1960s, for example, were convinced that language was basically an oral phenomenon. Accepting the stimulus-response theory of learning, they developed a second language approach based on four main assumptions.

a. *Language is speech, not writing.* Therefore, the natural order of language learning must be: listening, speaking, reading, and writing. In other words, reading must stem from (rather than precede) oral practice.

b. *A language is a set of habits.* Since a set of habits must be built up gradually, the approach advocated programmed instruction with four basic principles:[176]

(1) specification of desired behavior
(2) minimal steps in learning
(3) active response to presented stimuli
(4) immediate reinforcement

The method used was that of mimicry-memorization (mim-mem) and pattern drills. One had to try to avoid mistakes as much as possible because they were seen as the first step in forming bad habits.

c. *A language is what its native speakers say, not what someone else thinks they ought to say.* Thus, no prescribing grammatical rules should be taught. Instead, students must memorize authentic sentences spoken by native speakers. The more memorization the better, for then students will have a large stock of genuine sentences on which to base their analogies.

d. *Languages are different.* Measures must be taken to eradicate and avoid interference from students' native languages. Thus, the approach advocated the exclusion of first language from second language instruction. In building up the student's speech habits, five steps were deemed necessary:

(1) *Recognition*—involves perception and recognition of the structure and meaning of an utterance.

(2) *Imitation*—mimicking an utterance immediately after it is pronounced by the teacher or recording.

(3) *Repetition*—reciting the sentence by memory.

(4) *Variation*—involves pattern drills of the types of sentences already introduced.

(5) *Selection*—the process by which the students choose the appropriate sentences they have already memorized to fit their need in new contexts.

The audio-lingual approach to language teaching was received with optimism and enthusiasm, and its impact on language instruction was tremendous. Textbooks based on the approach were widely used. The strengths of this approach lay in its emphasis on the spoken aspect of language. It obtained excellent results in teaching pronunciation, in reinforcing the student's auditory memory, and in helping the student acquire the ability to process sounds and utterances at native speed.

3. *Audio-Lingual Approach (Descriptive)*—A variation of the Skinner approach followed the thinking of descriptive linguists, such as Charles G. Fries.[177] Dr. Fries, who served as a language consultant to the Department of Public Instruction of the Commonwealth of Puerto Rico, argued that in order to provide an efficient program in English for the non-English-speaking child, the essential elements of language must be identified through a contrastive analysis of English and the language of the learner. From this analysis it was held that the essential elements to be taught were those of greatest recurrence, that is, the points of contrast in grammar and sound systems. The vocabulary needed for any given communication purpose was supposed to vary with the learner's intention, interest, and experience.

For productive use the student needed a minimum of language forms to cover a maximum number of situations. For receptive use the student had to learn to respond to a wide variety of language forms, as he or she had no control over the linguistic habits of others.

Advocates of applied descriptive linguistics further argued that language-learning experiences should proceed through three basic stages: (1) simple imitation on the part of the learners, (2) learners

consciously select a particular form or arrangement of words through substitution or conversation of sentence patterns previously practiced, and (3) learners demonstrate their mastery over a linguistic feature by using it more or less spontaneously while their attention is focused on other features of the communication situation.

The use of either the Skinner or the Fries approach to ESL resulted in extensive and highly-structured pattern practices designed to help the non-English-speaking child master the grammar and sound systems of English through repetition.

Still another approach to teaching ESL (as well as foreign languages) was developed by Caleb Gattegno. The methodology derived its name, "The Silent Way," from the nonverbal role of the teacher as a facilitator of learning—using nothing more than a set of colored rods. The strategy was tied to another innovation pioneered by Dr. Gattegno to teach reading with "Words in Color."

THE FAILURE OF ESL (PEDAGOGICAL FLAWS)

That the exclusive use of ESL was unsuccessful in providing an educational opportunity for Hispanic children in the 1960s is a statistical reality. The failure can be attributed to several factors, some of which point to pedagogical weaknesses in the approach itself and others which concern the prevailing societal attitudes influencing school personnel at that time.

1. *Adult-oriented*—The approach derived from FLES which in turn was based on the Army Specialized Training Program. Its pedagogical soundness for young children was questionable since the methodology was originally developed to teach foreign languages to highly-motivated adults.

2. *Teachers unprepared*—Most ESL teachers were converted language arts teachers who lacked adequate training in ESL methods.

3. *Impractical*—Many participants in this program-development effort rarely took into account the other curricular needs of the learner and the uses to which the new language would be put. There was no coordination, integration, or reinforcement between ESL and other subject matter instruction. The resultant programs were often parrot-like drills devoid of a conceptual framework within which learners could use their new language. In essence, the English taught did not meet the immediate communication and academic needs of the students. The policy of teaching English first, as a prerequisite for understanding other subjects, failed to utilize the students' native language ability in content area instruction.

In a typical ESL program, participants were "pulled out" of regular classes for an average of 45 minutes of English instruction two to five times a week. While they were still in the process of learning English, however, they continued to receive all other content instruction in English, a language they did not yet understand.

Consequently, they fell behind in subject areas, sometimes as far as two or three years.

Dr. Angel Luis Morales explained: "By imparting education in a non-vernacular tongue, one is forcing the student to think in contents and in thought-patterns which are not his natural spontaneous ones. This, naturally, brings confusion, difficulty and hesitation."[178] By the time the children were able to understand instruction in English, their class was discussing advanced concepts, the fundamental bases of which they had missed because these had been taught while they were struggling to learn English. They had been "out of it" for nearly three years.

The problem was no longer the language barrier; it was a cognitive roadblock. It was like trying to perform multiplication and division without having first learned addition and subtraction. No longer vindicated by the language handicap, the children would become convinced that they lacked the ability to learn, would accept the prognosis that they would never make it, and would fall victim to the self-fulfilling prophesy.

4. *English became the prime goal*—ESL advocates commonly accepted the idea that the learner's first and overriding task was necessarily the mastery of the system of the school language even at the expense of other important skills and understandings requisite for coping with academic life. The exclusive concentration on English language acquisition at the expense of overall conceptual development was not only a misplaced priority; it had other serious implications.

5. *Neglected other needs*—ESL, in and of itself, ignored all other incompatibilities between school and pupils save that of language. As the most immediate and most visible problem, the language "handicap" eclipsed problems of cultural conflict, discrimination, socioeconomic conditions, and low self-esteem which would surface later as the schools began to deal with the language concern.

6. *Suppressed native language*—The idea of acquiring English as a *second* language somehow escaped many educators who held that children had to discard one language to learn another. Often, children were not only forbidden from speaking their native language in school but discouraged by teachers from speaking it at home. While the logic behind this practice appeared to be prompted by the merit of "total immersion" in language learning, it only served to create communication gaps in non-English-speaking homes long before "generation gap" became a household word.

When attempts had been made to deny children the use of their vernacular, the usual attainment had been "half-lingual" children: stutterers in thought, stammerers in spirit. Berger and Luckmann explained that one learns a second language by building on the taken-for-granted reality of one's "mother tongue." For a long time, one continually retranslates into the original language whatever elements of the new language one is acquiring. Only in this way can the new language begin to have any reality. As this reality comes

to be established in its own right, it slowly becomes possible to forego retranslation. One becomes capable of thinking in the new language. Nevertheless, it is rare that a language learned in later life attains the inevitable, self-evident reality of the first language learned in childhood. Hence derives, of course, the affective quality of the "mother tongue."[179]

In his review of bilingual literature, Jensen found that some authors contended that children, after being exposed to a second language, may develop a sense of shame regarding their native language.[180] This supported the notion that the rejection of the child's first language in school could produce negative attitudes toward its cultural elements. In such cases, the child then may reject the school system—the institutional setting responsible for generating this cultural conflict.

7. *Lacked cultural considerations*—Negative encounters with testing contributed to the deterioration of these children's self-concept. In spite of apparent competency in the English language, many Hispanic students continued to score low on tests. Puerto Rican children, for example, would color bananas green instead of yellow, could not tell if it was raining or sunny when shown a picture of someone carrying an umbrella, and would complete the phrase "bread and _____" with *coffee* instead of *butter*. These were the first indications that testing had built-in social and cultural biases and that the teaching of English alone was not sufficient to improve the educational opportunity of non-English-dominant, culturally-different children. It was obvious that a new curriculum had to be designed with cultural as well as language relevancy and that new psychometric instruments had to be devised capable of measuring cognitive growth, communicative skills, and social and emotional adjustment instead of simply measuring English language comprehension and Anglo middle-class societal values, which were alien to minority group children.[181]

THE FAILURE OF ESL (MILIEU OF THE TIMES)

Many of the educational problems of Hispanic children could not be blamed entirely on the shortcomings of ESL. Ethnocentric philosophies, political considerations, and discriminatory practices often transcended technical pedagogical problems or budget limitations to create insurmountable barriers to equal educational opportunity.

1. *Discrimination*—Perhaps the most difficult of all Anglo-American standards with which Hispanic students had to cope was prejudice. Hispanics could not understand at first why "colored" people were not welcome in certain places and why they themselves were turned away from playgrounds, swimming pools, barber shops, candy stores, and certain neighborhoods. Many who had never noticed the color of their skin before were being asked for the first time to identify themselves in specific racial terms. Hailing from a society which did not judge people by their color or their choice of ancestors

(and in which they were certainly not members of a minority group) the question was mind-boggling—especially for those who could not make such a clear-cut distinction about themselves.

Many Mexicans and Puerto Ricans, incidentally, solved this identity problem with poetic license and habitually spoke of themselves as a race—*la raza*. The self-proclaimed racial designation—generally disputed by anthropologists—was based on the broader, nonscientific definition of race, which extended the term to groups of people united on the bases of a common history, ethnic stock, or nationality (the German race, the Irish race). Although this outlook contributed in no small way to racial harmony among Latin Americans and Antillians, it also helped to keep Hispanics out of the U.S. melting pot and was greatly retarding their assimilation into the mainstream of society in the United States.

Puerto Ricans, particularly, were caught in a double jeopardy dilemma not confronted by Mexican-Americans or Cubans. While Mexican-Americans had suffered from their non-White status in American society, their U.S. citizenship had not really been in question for most of them were born in the continental United States. On the other hand, the Cuban refugees coming to the U.S during the 1960s were Caucasian and generally escaped racial bias, although the indices of a foreign national origin were inescapable because of their surnames and lack of English proficiency. Puerto Ricans, however, were candidates for discrimation on both grounds: race and national origin.

a. Although only six percent of the population of Puerto Rico was officially categorized as Black by the U.S. Census, Puerto Rican migrants were collectively branded as "non-White" and limited in ways similar to the restrictions imposed upon Blacks.

b. While many of their fellow Americans knew intellectually that Puerto Ricans were United States citizens, emotionally they regarded them as coming from "another country." This foreigner notion was reinforced, naturally, by their lack of English proficiency.

2. *Ethnocentrism*—Teaching English as a second language in *this country* seemed incomprehensible, even disturbing, to many Americans who could not conceive the chronological primacy that English had to be second simply because these children already had learned their first language. (The phenomenon had nothing to do with the irrevocable fact that English was the national language of the United States.)

3. *Low self-esteem*—Low expectations by the schools reinforced by the students' own failures, combined to produce a feeling of hopelessness and a sense of unworthiness in the vast majority of these children. This was one of the reasons for the founding of Aspira in 1961. The only national private educational agency dedicated to assisting Puerto Rican youngsters, Aspira was created in New York by the National Puerto Rican Forum to:

a. combat negative self-image;

b. prevent school dropout by providing remedial help;

c. encourage post secondary studies;

d. develop leadership capabilities.

Aspira branches eventually spread to Chicago, IL; Philadelphia, PA; Newark, NJ; San Juan, PR; Miami, FL; and Washington, DC.

4. *Dropout syndrome*—The 1966 Coleman Report indicated that "between the ages of sixteen and seventeen, when dropping out of schools first occurs in large numbers, youths who were Puerto Rican, of Spanish descent in the Southwest, American Indians, Negro or foreign born, in that order, were most likely to be out of schools."[182] Interviews with Hispanic dropouts revealed that the causes for leaving school prematurely were not only the language barrier but, very often, a feeling of despair, desolation, and low self-esteem and aspiration.[183]

These findings were later supported by studies conducted in Chicago by Isidro Lucas in 1971 showing that problems of negative self-concept caused by discrimination, difficulty in relating to their parents and progressive estrangement from the school were more important in influencing the rate of dropouts than was a limited English-speaking ability.[184] Lucas found that the dropout rate was higher among Puerto Rican students who had lived in the United States Mainland ten years or more than among the newcomers from the island. The study concluded that Puerto Ricans who knew English and understood derogatory remarks better than their non-English-speaking counterparts (recently arrived from the island) were more likely to feel offended and to drop out of school.

7 The Renaissance of Bilingual Education

THE SHORTCOMINGS OF English as a Second Language when used in isolation, the rapidly increasing enrollment of students of limited English-speaking ability in our schools, the onset of student unrest in the inner cities (the dawn of the Civil Rights era) and the persuasive powers of Cubans all combined to bring about the revival of bilingual education in the United States. In essence, educators finally agreed that it made more sense to change the language of the schools than that of the children. The basic argument behind this thesis was that children learned better when taught in their native language—especially in the early stages of their schooling. In other words, Mexican-American, Puerto Rican, or Cuban children who had lived their first five years in a Spanish-language environment were ready to learn to read and write in Spanish—but not yet in English. Since Anglophone children were not expected to begin their reading in material that was outside their listening-speaking vocabulary, it was not logical to expect it of other children, especially when Anglophones usually profited from carefully-prepared reading-readiness programs not generally available to non-English-speaking children.

Most reading specialists agreed that the task of beginning readers should not have been compounded by expecting them to read a foreign language before they could read their own. Their initial task should have been limited to converting the printed word into its spoken form which they already recognized. While learning to read and write their mother tongue, children needed careful training in learning, understanding, and speaking ESL through a suitable approach before learning to read and write it. Meanwhile, their conceptual development, their acquisition of information and experience—in sum, their total education—did not need to be deferred until they mastered English because the entire curriculum would have been taught in their native language while a gradual transition was being made to English. This approach—which was essentially the basis of bilingual education—permitted making a clear distinction between *education* and *language*, i.e., between the *content* of education and the *vehicle* through which it was acquired.[185] The bilingual concept also recognized the fact that schools did not have to strip away the students' native language and other cultural characteristics in order to teach them English. Youngsters, then,

had the option of embracing the language and culture of the dominant society without forsaking their own mother tongue and heritage.

THE CORAL WAY EXPERIENCE

The first bilingual program after World War II was set up at the Coral Way Elementary School in Miami in September 1963 in grades one through three with a plan to move the program up one grade each year. It was started with the help of Ford Foundation funds. The school population was about equally divided between English speakers and Spanish-speaking Cuban children. Parents were offered a choice between a traditional all-English program and the bilingual program (in which about half of the teaching would be done in Spanish by experienced Cuban teachers). All the English-speaking parents and all but a sprinkling of the Cuban parents opted for the bilingual program, and by the end of the first year the preference for the bilingual method was so nearly unanimous that the all-English option was eliminated the second year because it was not needed.

During half of the school day subjects were taught in the pupils' native language—in Spanish to Spanish-speaking children by native Cuban teachers and in English to English-speaking children by American teachers. During the other half of the school day, the concepts which had been introduced in the native language were reinforced in the pupils' second language. Once the children had acquired adequate control of the second language, concepts were introduced in the native language of the teacher regardless of the native language of the student. The cultures of both Spanish- and English-speaking groups were incorporated in the instruction that all received. From the beginning the children were mixed on the playground as well as for lunch, music, and art. They were free to speak in either language.

The Coral Way approach quickly expanded to other schools in the Dade County system. It was now clear that bilingual schooling was a viable concept. Before long the program had attracted national attention, and the bilingual schools in Miami Beach became unofficial demonstration centers for the nation. Advocates from other Spanish-speaking areas made pilgrimages to Miami. They trudged through the halls observing instruction, reviewed curriculum materials, and interviewed staff members. Then they returned to their monolingual ambience and sought to persuade their respective institutions to move along similar paths.[186]

Largely as a result of the Dade County experience, school districts in the Southwest began in 1964 to introduce bilingual teaching in schools with heavy concentrations of Mexican-origin pupils. Two bilingual programs were launched in Texas: (1) in the Nye School of the United Consolidated Independent School District in Webb County (outside Laredo), and (2) in the San Antonio Independent School District. In 1965 bilingual projects began in Pecos, NM, and in Edinburg, TX. In 1966, bilingual programs were established in the Harlandale Independent School District of San Antonio, in Del Rio, and in Zapata, TX; in Calexico and Marysville, CA; and in Rough Rock, AZ. The following year, bilingual programs were initiated in Las Cruces, NM and St. Croix, VI.

THE MOVE TOWARD RELEVANT INSTRUCTION

By the 1960s, many schools were using a new interdisciplinary ESL approach which combined the second-language program with one of conceptual development. Efforts which helped show the potential for a combination of meaningful pattern-practice and subject-matter content were carried out in New Mexico and in Texas. (Another program along somewhat similar lines was developed by the Migrant Project of the Michigan Department of Education from 1968 to 1970.) In such programs the subject-matter areas provided the content for the language development activities. Basic intellectual skills such as classification, seriation, and distinguishing temporal and spatial relationships were elaborated and eventually applied to social, scientific, and mathematical concepts.

While this modification constituted an enlightened improvement over past ESL practices, the initial learning of subjects taught in a language they did not yet understand was still creating a problem for non-English-speaking students. The interdisciplinary programs did or did not take advantage of the learner's mother tongue depending on local attitudes toward bilingual education, which were often negative.

By the 1960s, the French bilingual schools of 1940 had almost disappeared. Franco-Americans were struggling to assure that French would at least be taught one full period a day as a subject. The study of French had surpassed Latin in popularity in 1960 as students were becoming more pragmatic toward their elective subjects. French became the second most studied foreign language in

the United States—after Spanish—and Latin dropped to third place. American students were definitely favoring a more relevant curriculum.

Other efforts were made outside the field of language to modernize the means of instruction. Basic to this instructional revolution were the thorough investigation of the learning process and the most efficient use of educational technology then available. The "new" mathematics, team teaching, educational television, programmed instruction, nongraded school and individualized instruction were but a few of the innovations to be tried during that period. Along with these, the growing problems of the inner city schools and educationally-deprived youth focused attention on the preparation of methods and materials designed to reach the children of the poor. While these efforts were going on in education, a seemingly unrelated struggle in another arena would have a dramatic impact on the future of bilingual education in the United States.

THE CIVIL RIGHTS MOVEMENT

The history of cities showed that when neighborhoods became overcrowded, when people were poor and when living conditions were bad, tensions ran high. This was a situation that fed on itself; poverty and crime in one group bred fear and hostility in others. This, in turn, impeded the acceptance and progress of the first group, thus prolonging its depressed condition.[187] It was a vicious cycle which often required bold, radical thrusts to break. The traditional goal of American policy had been to encourage equal opportunity for individuals, not equal achievement for groups.

Unable to continue to endure the ill effects of bad housing, underemployment, poor representation in government, and lack of educational opportunity, members of America's minority groups took their frustrations to the streets of the nation's largest cities in the 1960s. Waves of massive civil disobedience swept across America during the spring and summer of 1963. Certainly not a new phenomenon but, for the first time in history, people would not have to wait for their morning newspapers to read about it and see it in one or two black and white still photographs. The magic of television brought the action to the living rooms of America—and the world—at the moment it was happening. The sights and sounds of despair, hatred, and violence made every American feel personally involved and touched in different ways: shock, shame, fear, guilt, anger, compassion!

President Kennedy began to mobilize support for the enactment of civil rights legislation. Although the Blacks were at the vanguard of the efforts to secure individual civil rights, their gains were shared with other minorities who had also been victims of the same type of discrimination.

In 1964, a decade after the Supreme Court decision had declared segregation in schools unconstitutional, the 88th Congress passed a sweeping Civil Rights bill which was signed into law by

President Johnson.[188] This new piece of legislation spelled out the concept of equality in the nation's fundmental law. No longer simply the judgment of the courts, equal rights now became the will of the United States Congress. Some historians called the Civil Rights Act of 1964 the "Magna Carta" of American minority groups.

The Act covered nearly every aspect of public life including schools. Title IV empowered the Attorney General to bring school desegregation suits if private citizens were unable to sue effectively. Title VI provided that no person—on the basis of race *or national origin*—shall be excluded from, or discriminated against, in any program receiving Federal financial assistance. Each Federal agency which was empowered to extend subsidies to any program (contract, grant, loan, tax exemption, etc.) was not only authorized, but directed to impose sanctions for noncompliance with the provisions of this law. Such sanctions could include the termination of Federal subsidies. The fact that most educational institutions benefited from a wide range of Federally-assisted programs was a vulnerable entry point for enforcement of nondiscriminatory practices.

Perhaps more importantly, in his 1964 state of the union message, President Johnson declared "an unconditional war on poverty." The resulting Economic Opportunity Act provided funds for a myriad of causes for the underprivileged including various types of community action programs and related projects to combat poverty.

Community Action Programs (CAPs) were extremely significant because they provided bases of operation for "grass roots" community leaders who had theretofore labored unsupported on their own time—often risking their jobs—to liberate their communities from the grips of poverty and oppression. Although the government provided the resources, the "target populations" were given the opportunity for the first time to set their own priorities and run their own programs. Many Blacks and Hispanics in the United States found themselves almost overnight functioning as administrators, technicians, consultants, and in other positions where they could actively advocate for their respective causes. One of the CAPs was a Navajo Demonstration School at Rough Rock, in 1966, which gave Native Americans the opportunity to put their own ideas about education into practice. The War on Poverty and other community action programs of Johnson's "Great Society" set in motion a series of fiscal, political, and administrative forces that had profound consequences for American education and confirmed the Federal commitment to social, political, and educational equity.

The Immigration Act passed in 1965, for example, lifted rigid quotas which had discriminated against certain national origins. That same year Congress enacted the Voting Rights Act of 1965 to protect the suffrage of minority citizens. It eliminated voting qualifications, procedures, or devices (such as literacy tests) that would deny or abridge a person's right to vote.[189] Also that year Congress enacted the Elementary and Secondary Education Act (ESEA) of 1965, which was promptly signed by President Johnson. A former

teacher, Johnson was a strong believer that education was the key to combatting poverty. Title I of the Act provided assistance to educational agencies for the needs of children of low income families.[190]

As Title I was being readied for implementation, however, it became evident that its most significant impact would be in the inner cities with high enrollments of Black children. Federal legislators from districts with predominantly Hispanic minorities felt that the academic disadvantage suffered by their minority constituents was not so much a result of socioeconomic deprivation as it was the logical consequence of a language barrier. Convinced of this, these lawmakers set out to enact a companion piece of legislation that would offer non-English-speaking (NES) students an opportunity to survive in school—essentially what Title I was intended to do for Black children.

Although there was precious little empirical research to prove bilingual education was the best alternative toward insuring equal educational opportunity for NES children, there was enough evidence to suggest that a lack of proficiency in the language used as the medium of instruction was a serious handicap for the students. In his review of several studies in bilingualism, for example, Jensen had found that some authors believed that thinking in one language and speaking in another confused the children and tended to retard their learning. On the other hand, Soffietti, in his study of "Bilingualism and Biculturalism," asserted that psychological or sociological problems arose from attempting to adjust to two different lifestyles rather than learning two languages.[191] Yet, observations of testing of NES children in a Chicago high school revealed that students thinking in one language and writing in another took longer in responding to given test questions.[192] These phenomena clearly supported the utilization of the native language as well as cultural considerations in the instructional process.

On the other hand, there was ample evidence to support the fact that NES students were enduring a meaningless educational experience. The history of despair and the need for radical solutions were being documented by an impressive array of publications—many of which were the products of extensive research or high power conferences during the 1960s.

That public education had continued to neglect the needs of language minority students on a national level was evident in the fact that the recommendations of the 1964 Orange County Conference on the Education of Spanish-Speaking Children and Youth were almost identical to those proposed eighteen years before by participants at the First Regional Conference on the Education of Spanish-Speaking People in the Southwest held in Austin, TX in 1946. Both groups recommended an end to segregation of Spanish-speaking students, the development of teacher training programs, and improvement in the teaching of English.

The lack of educational opportunity was reflected, of course, in the socioeconomic conditions of Hispanics. For example, during the decade of the 1960s, the median income of families with Spanish

surnames in the Southwest barely inched ahead from 65 to 66 percent of the median income for Anglo families. And in 1970, Mexican-Americans older than 25 years of age averaged less than nine years of schooling, compared to more than twelve years for Anglo-Americans.

Questionable educational practices often contributed to the children's failure. One Texas school board, for example, had required Spanish-surnamed children to spend three years in the first grade until a Federal court stopped the practice. In the State of Washington, Muckleshoot children were automatically retained an extra year in first grade; Nook-Sack Indians automatically were placed in slow-learner classes.[193]

In 1966, Puerto Rican students constituted more than 21 percent of the total public school population in New York City. The Puerto Rican dropout rate in that city was being estimated as high as 85 percent. Of those who survived to the eighth grade, sixty percent were three to five years below reading level. Between 1965 and 1969 only four Puerto Rican students graduated from Boston high schools. Puerto Ricans were finding that the United States Mainland was not the land of opportunity for them. Disappointed, many were returning to their homeland. (This reverse migration may have accounted, at least partially, for the fact that the U.S. Census reported in the early seventies that more than a third of Puerto Rico's population could speak English.)[194]

A number of important publications sensitizing the nation to the plight of Hispanic students in U.S. schools began to appear in the late sixties. In 1965 the National Education Association sponsored "The Tucson Survey on the Teaching of Spanish to the Spanish-Speaking" which confirmed that schools, techniques, and materials—not the Spanish-speaking pupils—were deficient. The NEA Tucson Survey yielded a number of recommendations and led to a symposium which was convened the following year at the University of Arizona. The 1966 Symposium produced an impassioned appeal to the nation's conscience in a publication titled, *The Invisible Minority*.[195] (Seven years later, NEA cosponsored a national bilingual-bicultural institute in Albuquerque which examined the Tucson symposium and its aftermath.) In February of 1967 a conference was convened by NEA on the treatment of minorities in textbooks and other teaching materials.

Aspira commissioned writer Richard J. Margolis to survey the status quo of Puerto Ricans in the public schools. The title of his report, *The Losers*, was a fitting description of the poignancy of its content. The document served as the basis for the agency's first national conference in 1968, which produced another report, *Hemos Trabajado Bien* (We have done a good job).

There was a marked increase in the number of doctoral dissertations on Puerto Rico and/or Puerto Ricans in U.S. Mainland universities, a topic on which advance graduate research had been negligible during the first half of the century. The most prolific author on the subject of Puerto Ricans on the U.S. Mainland during

the 1960s was Francesco Cordasco, a professor of education at Montclair State College, whose timely writings redirected public attention and institutional priorities from Black and Chicano to Puerto Rican needs.

Other publications of the decade dealt with bilingual education and linguistic diversity. *Language Loyalty in the United States* authored by Joshua Fishman in 1966 was based on a survey conducted for the U.S. Office of Education in cooperation with the University of Pennsylvania. Professor Fishman made a series of recommendations, many of which were later considered in the drafting of the Federal Bilingual Education Act. The September 1969 issue of *The Center Forum* and the November 1970 issue of *The National Elementary Principal* were entirely dedicated to bilingual education and the needs of NES students—as were several publications issued by the U.S. Commission on Civil Rights. These books, documents, and reports helped considerably to sensitize public opinion to the plight of non-English-speaking students in American schools.

Heartened by the fertile climate of the nation and encouraged by the apparent success of the Black insurrection, Hispanics began to speak out in their own behalf—perhaps not as objectively but much more accurately than well-meaning outside advocates. More importantly, Hispanics themselves were being sensitized, embarrassed, even angered—by the overwhelming indications of their failure. This consciousness led their leadership to form coalitions based on common needs. The social and political imperatives were strong. Bilingual education was an idea whose time had come—again.

The bilingual movement became a rallying cause which began to unite all Hispanics in the country. This brought about interesting semantic changes in the names of organizations and agencies. The Southwest Council of *Foreign Language* Teachers changed its name to the Southwest Council for *Bilingual Education*. The Inter-Agency Committee on *Mexican-American* Affairs, originally established in 1967, was renamed in 1969 the Cabinet Committee on Opportunity for the *Spanish-Speaking*. The *Mexican-American* Affairs Unit, an in-house lobby for Chicanos in the United States Office of Education since July 1967, in 1970 became the Office for *Spanish-Speaking* American Affairs.

By virtue of both their sheer numbers and the fact that their presence in the U.S. Mainland predated all other Hispanic groups, Mexican-Americans constituted the most visible national origin group in the nation. However, Cubans were quickly gaining acceptance as a socially, industrially, and politically valuable Hispanic group.

In 1966 Congress passed the Cuban Adjustment Act, which permitted Cuban exiles to adjust their status and become permanent resident aliens. Two years later the Immigration and Naturalization Service—against the advice of its own attorneys—began to count the Cubans as part of the immigration quota (120,000 persons) allowed for all Western Hemisphere nations. Cubans, incidentally, were coming at a time when Anglo Americans were begin-

ning to appreciate the value of other cultures, foreign languages, and other indications of diversity.

Interest in modern foreign languages was at a new peak. The proportion of American high school pupils studying modern languages, which had grown steadily during the score following World War II, reached 28 percent in the late sixties. But Latin, which had been losing students since the turn of the century, ranked fourth in popularity. The many reasons for this included the fact that the Catholic Church had discontinued the use of Latin for the mass and parochial schools no longer required its study. Schools in general were de-emphasizing mandated courses and allowing for more electives. Spanish, French, and German (in that order) were the most studied foreign languages in secondary schools at that time.

It was a striking contradiction that American schools would spend millions of dollars to teach students a foreign language, but not to maintain, nurture, and develop the native language competence of children in the United States who already spoke these languages as a result of their national origin. On the contrary, schools had been actively engaged in efforts to eradicate these children's mother tongue. In addition, incredible Catch-22 conditions had been imposed on the few NES students who had managed to finish high school and sought admission to colleges and universities. For example:

1. As a rule, school systems in the United States would not grant academic credit to native speakers of a foreign language—no matter how proficient they were—since they had not learned it in American schools.
2. The standards of some school systems had required a minimum grade in English (usually a B or C) before a youngster was permitted to enroll in the study of a foreign language.
3. A foreign language was required as a prerequisite for matriculation in most colleges and universities.

Thus, NES students could neither get credit for knowing their mother tongue nor approval to enroll in a formal course to satisfy the foreign language requirement. The lack of a foreign language on their high school transcripts had barred many of these students from a higher education, even though their (admittedly limited) proficiency in English—which was a foreign language to them—was often superior to the foreign language proficiency of Anglophone students. The technicality had little to do with logic.

8 *Federal Bilingual Education Act*

IN JANUARY 1967, Senator Ralph Yarborough of Texas introduced S-428, which proposed "to amend the Elementary and Secondary Education Act of 1965 in order to provide assistance to local educational agencies in establishing bilingual education programs and to provide certain other assistance to promote such programs." At long last the Congress had before it a proposal which would legitimize the cultivation of individual cultural differences in our schools.

The bill directed itself to the Spanish-speaking only, because of their number and their different history in the United States. It was Yarborough's contention that in coming here to set up a new life in accordance with the United States, other non-English-speaking groups had made a decision to give up their old lifestyle, culture and language.

But, Yarborough argued, that was not true in the Southwest, in which case the United States had taken over the land and the people and imposed its own culture upon them. Mexican-Americans, he concluded, did not consent to abandon their homeland, to come here, and start anew.[196] The same argument, of course, applied to Puerto Ricans and to Native Americans. The Yarborough bill, in fact, defined the Spanish-speaking student by Mexican or Puerto Rican birth or parentage. It was a recognition that Hispanic students had been neglected by American schools. But Sen. Yarborough's proposed legislation went far beyond this elemental recognition. It recommended (1) bilingual education programs; (2) the teaching of Spanish as the native language; (3) the teaching of English as a second language; (4) programs designed to impart to Spanish-speaking students a knowledge of and pride in their ancestral culture and language; (5) efforts to attract and retain promising individuals of Mexican or Puerto Rican descent as teachers; and (6) strategies to establish closer cooperation between the school and the home.[197]

However, the limitation of the bill to Hispanics was sharply attacked by others who felt that unless all Americans—regardless of their national origin—were made to feel that the preservation of their respective ancestral languages and cultures was important, the bilingual effort would not be successful.[198]

The initial reaction of the United States Office of Education maintained that programs of bilingual education could be handled

through the existing Titles I and III of ESEA. (Title III provided for the establishment of model schools, pilot programs, and demonstration projects in education, and generally encouraged schools to come up with new ideas to resolve old problems.) At that time there were as many as 25 bilingual programs operating under Titles I and III, and the number was growing.

ANTECEDENT BILINGUAL PROGRAMS

In 1966 a Title III bilingual project with four first grade classes began in El Paso, TX. One grade level was added each subsequent year.

Hoboken, NJ, started a bilingual program with a Title III grant in September 1967. One first grade of 33 children with little or no knowledge of English at the Thomas Connors Elementary School, which was 48 percent Puerto Rican, was given practically all instruction in Spanish by a Cuban teacher and a Puerto Rican teacher aide. At that time, half of the Hoboken school population had a limited English-speaking ability; forty percent was Spanish-speaking, mostly from Puerto Rico. The gradual transition model used called for practically all instruction in the first grade to be in Spanish; two-thirds Spanish, one-third English in the second grade; and one-third Spanish, two-thirds English in the third grade. It was expected that, by the fourth grade, the children would be able to enter regular, nonbilingual classes, at which time a Spanish language arts and Puerto Rican cultural enrichment program was to be added.

The emphasis of Assimilation Through Cultural Understanding, as the Hoboken bilingual program was called, was placed on improving the awareness of not only those in the bilingual program but all teachers. This was partly accomplished through teacher exchanges with Puerto Rico, in which Hoboken involved other districts such as Camden, Vineland, Perth Amboy, and Trenton. As part of the same program, Hoboken conducted a series of "seminar visits" to the island in cooperation with Jersey City State College.

To overcome the shortage of bilingual teachers, 46 bilingual students from the junior and senior high schools, 38 of them Spanish-speaking, served as teacher aides. These students were paid three dollars for two hours of tutoring each day and, in addition, received high school credit for the experience toward graduation. A by-product of the program was that it served to inspire most of these student-teachers, many of whom were potential dropouts, to stay in school and, in some cases, pursue teaching careers.

Hoboken was attacking the problem on three fronts. It was meeting the immediate needs of newly-arrived children; dealing with the attitudes of all teachers in the system; and beginning the process toward providing bilingual teachers for the future.

The second New Jersey bilingual program began in February 1968, when bilingual schooling was provided for Spanish-speaking elementary grade children in Englewood. The program's goal was to improve the children's Spanish while they were gaining skills in

English. The Title I-sponsored project utilized one bilingual teacher and one bilingual aide with the assistance of parent volunteers.

In September of that year, a bilingual class was started in the Garfield Elementary School of Long Branch, NJ. Spanish-speaking children in grades one and two received instruction in content areas in Spanish. English was taught in a structured sequence of lessons. The program utilized one bilingual teacher, was directed by the school principal, and sponsored by local funds.

P.S. 25 in New York became a bilingual school in 1968 while still funded by the local board of education's budget. (Its principal, Hernan LaFontaine, went on to become one of the best known authorities on bilingual education.) Corpus Christi and Del Valle, TX also had programs in 1968. While these were pilot projects—none approaching the comprehensive bilingual-bicultural program models that would soon appear—they provided the proving, testing, and training grounds to support a major national thrust toward bilingual instruction.

TITLE VII ESEA

A total of 37 bills similar to Sen. Yarborough's were introduced in the U.S. House of Representatives before Congressman James Scheuer of New York rewrote Yarborough's bill to include all non-English-speaking children. It was this bill, merged with some others into a single measure which in January 1968 became Title VII of ESEA—the Bilingual Education Act—a vehicle for Federal participation in promoting this "new" concept of schooling. In the words of the legislators:[199]

> The Congress hereby finds that one of the most acute educational problems in the United States is that which involves millions of children of limited English-speaking ability because they come from environments where the dominant language is other than English; that additional efforts should be made to supplement present attempts to find adequate and constructive solutions to this unique and perplexing educational situation; and that the urgent need is for comprehensive and cooperative action now on the local, State, and Federal levels to develop forward-looking approaches to meet the serious learning difficulties faced by this substantial segment of the Nation's school-age population.
>
> In recognition of the special educational needs of the large numbers of children of limited English-speaking ability in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out new and imaginative elementary and secondary school programs designed to meet these special educational needs.
>
> In determining distribution of funds under this title, the Commissioner (of Education) shall give highest priority to States and areas within States having the greatest ... number of children of limited English-speaking ability between the ages of three and eighteen in each state.

As envisioned, bilingual education was supposed to accomplish three purposes: (1) provide English language skills, (2) maintain native language skills, and (3) support the cultural heritage of the students. This threefold purpose had been set forth by the Puerto Rican Resident Commissioner in his testimony at the legislative hearing.[200]

Five million school-age children in the United States were estimated to be of limited English-speaking ability. Four million of them were said to be Spanish-speaking.

The expansion of the legislation beyond the needs of the Spanish-speaking, although broadly applicable to a number of ethnic groups—French, Polish, Chinese—was particularly related to Indian education. Indians had developed bilingual teaching materials, but their efforts had been stopped by the advent of World War II.

The corresponding initial appropriation measure for Title VII was rejected by Congress in 1968; but in 1969 the Federal legislators approved $7.5 million, an amount which caused Sen. Yarborough to recall an old religious song from his Texas childhood: "mercy, drops 'round us are falling, but for the showers we plead."[201]

Grants under Title VII were available to demonstrate how the education program could be improved through exemplary pilot or demonstration projects in bilingual and bicultural education in a wide variety of settings. Title VII funds were also available for: preservice and inservice training of teachers, supervisors, counselors, aides, and other auxiliary education personnel; establishment and maintenance of programs; research, development, and dissemination of instructional materials; acquisition of necessary materials and equipment, as well as optimum use of educational and cultural resources; and improvement of cooperation between the home and the school. School districts seeking Title VII funds were required to submit proposals that included meaningful participation of the non-English-dominant community in the projects from initial planning through the evaluation process.

Most of the 76 projects funded that initial year were Spanish, although several programs were also funded in other languages—for the most part, minority languages. Nearly 27,000 students were served.

Title VII projects had to be evaluated at the end of each school year in order to be eligible for continued or increased funding. The maximum period of Federal financial support for any project would be five years from the date of the project's inception. At the end of that time it was the expectation or hope that local school districts would assume the costs of those bilingual programs which were considered successful and which had won the approval of local communities and school boards.

SIGNIFICANCE OF TITLE VII

Without a doubt, the passage of Title VII ESEA was a major breakthrough which was to have a significant impact not only on educational programs for the linguistically atypical child but on professional employment and political visibility as well. González observed that the Act's most significant features were:[202]

1. It recognized the political feasibility of encouraging instruction in a language other than English, thereby raising serious question about the "English-only" laws which existed in many states.
2. It began the process of formally recognizing "national origin minorities" as constituencies which may seek differentiated services on grounds other than those of racial discrimination or segregation.
3. It was the first step toward institutionalizing the notion that "equal" was not synonymous with "same."
4. By limiting its program development funding phase to a five-year period and exacting promises of continuity from local educational agency grantees, it attempted (albeit unsuccessfully) to promote the concept of local (and State) efforts in financing the cost of program maintenance.
5. Through a formal governmental recognition of the "legitimacy" of bilingual education, a welcome impetus was provided to the emerging breed of bilingual educators. (Subsequent frontiers were eventually expanded through the work of these persons.)
6. The passage of the Federal Bilingual Act, with the funds it provided and the attention it focused on the widespread need for teaching children in a language they understood and could handle, sparked a vigorous new movement toward bilingual-bicultural education in many parts of the United States.

WEAKNESSES OF TITLE VII

However, while rejoicing over the positive aspects of Title VII, one could not overlook some of the debilitating features of the Act. Perhaps the most incomprehensible aspect of the Bilingual Education Act (although not immediately apparent to some) was the fact that its goal represented a departure from previously-stated Congressional policy. At least three times during the preceding decade—by way of the National Defense Education Act of 1958, the Cultural Exchange Program of 1961, and the International Education Act of 1966—Congress had recognized the importance of a polyglot citizenry and had encouraged proficiency in more than one language for all Americans.

The target population for Title VII services already had ability in a language other than English. Yet, instead of recognizing that ability as an asset and creating the opportunity to nurture and develop it, Congress treated it as a handicap to be overcome. Thus, the "Bilingual" Act was—consciously or otherwise—designed to phase out the children's mother tongue while phasing in English.

Proposed as a remedial program (to compensate for a deficit), the Act was enacted as a *transitional* measure to assist children who were "educationally disadvantaged because of their inability to speak English"[203] and stipulated that services would be provided *only until* a child could effectively function in English. It promoted the use of other languages only as a means of learning English. Federal lawmakers, preoccupied with the funds being used to teach foreign languages, nipped the development of bilingualism among native speakers of other languages.

Another feature which gave the Act the characteristics of compensatory legislation was the priority placed on low income families. By imposing a poverty criterion, non-English-speaking children who happened to reside in moderate income areas were denied this vital mode of instruction.

Guidelines were unclear. While the Act was passed "in recognition of the special educational needs ... of children of limited English-speaking ability," these special needs, as well as the parameters for bilingual programs, were left up to the imagination of local educational agencies (LEAs). While the Office of Education defended the generous latitude with the rationale that these were "seed" monies intended to fund innovative projects, the absence of a clear-cut bilingual policy led to the misuse, misapplication, and general waste of funds which were already critically limited.

Another problem at the time of the enactment of Title VII was the fact that 21 states—including California, Louisiana, New Mexico, New York, Pennsylvania, and Texas—had English-only laws. Dr. Max Rafferty, who was the California chief school officer from 1963 to 1971, was vehemently against bilingual instruction.[204] Ronald Reagan, who served as governor of California from 1966 to 1974, did not favor the bilingual approach either, but his public pronouncements were carefully guarded—tempered by the inevitable needs of his State. In seven states, including Texas, teachers risked criminal penalties or revocation of their licenses if caught teaching in other languages. Obviously, these districts were ineligible to receive funding that required instruction in languages other than English. Interestingly, when monies became available, many (not all) of these states scurried to change their laws to permit them to teach bilingually. Others simply ignored their own laws, procured the funds, and implemented the programs—albeit "illegally."

POTENTIAL FOR SEGREGATION

Another aspect of Title VII, which would become a vulnerable point, was the assumption that the Act licensed schools to isolate linguistic minority children despite the fact that its regulations called for the inclusion of English-speaking pupils in bilingual programs on a voluntary basis. Very few Anglophones were found to volunteer the first year of the programs. Observers speculate that the reasons for the lack of Anglo participation included the following:

1. The programs were still new, did not have a "track record," and were not widely promoted.

2. Most programs were located in the heart of the Hispanic ghetto, in schools clearly identifiable as "Hispanic schools," often in dismal environments.

3. The programs were stigmatized from the beginning with a "compensatory" label—hardly the kind of magnet programs that would attract students voluntarily.

In the second year, Title VII national director Dr. Albar Peña insisted on the inclusion of Anglophones on the basis that:

1. Bilingual classes required the simultaneous presence of two monolingual groups (by definition, a bilingual class does not truly become bilingual until both groups are mixed).

2. The presence of English speakers in a class induced the non-English speakers to learn English by providing role models. (Anyone who studied Spanish, French or German in American schools or English in Puerto Rican, Cuban or Mexican schools where there was no opportunity to use the language outside the classroom would appreciate the wisdom of early role models.)

3. Bilingual classes completely composed of one or the other group fostered educational segregation and discrimination (in violation of *Brown*, Civil Rights legislation, and sound educational practice).

Opponents of the integration model reminded USOE that Hispanic children had been segregated before bilingual instruction was available. At the time Title VII was enacted, 65 percent of all Hispanics in elementary schools and 53 percent of all Hispanics in secondary schools were attending schools with predominantly minority enrollment.[205] Hispanics feared that the inclusion of English-speaking students in bilingual programs would mean that the already meager funding would have to be divided further, watering down the basic purpose of the program. They were not willing to do that, especially when Anglophones had access to other programs not available to children of limited English ability. Each English-speaking participant represented an excluded non-English-speaking student.

There was also another difficulty in involving English-speaking students in bilingual programs, which caused a legitimate concern. In the early stages of bilingual instruction students needed to be grouped linguistically for the purpose of teaching them in their native language. Obviously, if children who did not understand the language of instruction were included in the group, they would have been subjected to the same aberrations under which non-English-speaking children had been functioning and which bilingual education was supposed to correct.

Non-English-speaking children were also grouped for the purpose of teaching them English as a second language. Again, the involvement of children who spoke fluent English in the early stages

of ESL instruction would be not only boring for them—it would seem ludicrous. Integration, if tried at all, would have to be phased in gradually after the threshold barrier of communication was overcome.

Partly because of its uncertain future and partly because it was the only strategy available to assist a growing number of underachieving students, bilingual education was initially accepted as a bona fide reason for segregating students (on pedagogical grounds and not for the purpose of discrimination). Suspicious that this concession would be abused, Alfredo Mathew, the first Puerto Rican to serve as community superintendent in New York City, warned against an "emotional and sentimental devotion to bilingual education that would play right into the hands of those who would use it as a disguise for a new form of segregation or for resegregation." He reminded his colleagues that Hispanic children would be expected to function in a world composed of (and dominated by) English-speaking ethnic groups and that their ability to survive largely depended on their confidence in dealing with these other cultural styles on equal terms.

However, even those who supported the integration concept in bilingual education felt that, given the funding limitations, priorities would have to be set which would first address the urgent educational needs of non-English-speaking children and relegate the integration feature to the time when funding levels were adequate. Unfortunately, funding never did reach adequate levels and segregated bilingual programs flourished relatively unchallenged.

As the movement gained momentum, some school administrators expressed wariness in offering bilingual instruction in their districts on grounds that it violated the antisegregation policy of Civil Rights. In professing this commendable repugnancy toward pupil segregation, however, some school officials were missing the point that the mere physical desegregation of students—in and of itself—was not sufficient to insure equal educational opportunity. Indeed, desegregation plans normally called for other provisions, including curriculum modification, teacher inservice training, and related special services besides desegregated pupil assignments. Without these considerations, desegregation could result in a disservice to children with particular needs, such as a lack of proficiency in English.

This dilemma and the incipient, unexamined consensus among educators that bilingual education and school desegregation were mutually exclusive were two of the reasons why State and Federal educational authorities waived the rights of national origin minority children to desegregated schooling in order to facilitate their access to bilingual instruction. This "benign" segregation was generally condoned by both Hispanic parents and bilingual educators, rationalizing that Hispanic children had seldom been included in desegregation efforts anyway. They pointed out that desegregation plans were traditionally Black-White student exchange programs. If involved in desegregation, Hispanics were often counted under the

general rubric of *minority* and sometimes used to "desegregate" schools by mixing them with White Anglo students, leaving Black students in isolation. Other districts, classifying all Hispanics as Caucasians, would use them to "desegregate" all-Black schools without having to significantly integrate their White Anglo students with any minority group. Besides maintaining the segregated status, both strategies were failing to take into consideration the specific cultural and linguistic needs of Hispanic students and, of course, were making no provisions for these needs.

It was not difficult to understand why the cultural isolation of their children did not seem to be a concern to most Hispanic parents—especially those who were recent arrivals to the U.S. Mainland, such as Puerto Ricans. Hispanic children felt more comfortable among other Latinos with whom they shared a common language, culture, and system of values. They did not quite understand the implication of segregated schooling, for they had come from a society where stratification was based on a class system determined by socioeconomic status—not by the color of one's skin. Racial discrimination in their homeland had been relatively negligible. Therefore, they could not relate to the anger of Blacks over segregation. In fact, the hostility Hispanics had suffered in the U.S. Mainland had often come from both sides—White and Black—so they had nothing to gain by taking sides on an issue they felt did not pertain to them. As early as 1966, Joseph Monserrat, who later became president of the New York City Board of Education, was saying that Puerto Ricans could not perceive themselves as a racial minority[206] because there were no racial minorities in their homeland. The term "minority" on the island was applied to the members of the political party that lost an election. And while they were cognizant of the fact that in the States housing was available to them only in segregated slums, they also accepted the reality that they could not afford to purchase homes in middle-class White Anglo neighborhoods anyway. So they saw segregation as part of the consequences of their (temporary) economic circumstances; not their (permanent) race or ancestry.

It was somewhat different with Mexican-Americans, most of whom had lived in the U.S. Mainland all their lives, understood the *modus operandi* of American society, and had experienced the effects of segregation. They had not only been assigned to segregated schools, but had been further segregated within schools by reason of "language difference," a practice that had been somewhat sanctioned by the Texas Supreme Court in *Del Río ISD* v. *Salvatierra* in 1930.[207]

De jure segregation of Mexican-Americans did not end until 1945-46 with the ruling in *Méndez* v. *Westminster*, which was upheld the following year by the Ninth Circuit Court of Appeals. This marked the first time that public school segregation was denounced in Federal court—an important precedent for *Brown*. The anti-segregation policy was reaffirmed in *Delgado* v. *Bastrop* in 1948, which also extended it to other Latin Americans.

In *Gonzalez* v. *Sheehy*, a suit filed in 1951 challenging the legality of segregating non-English-speaking students in Arizona for the bona fide purpose of instruction, the court said:

> Such separate allocations, however, can be lawfully made only after credible examination by the appropriate school authorities of *each* child whose capacity to learn is under consideration, and the determination of *each* segregation must be based wholly upon indiscriminate foreign language "impediments" in the *individual* child regardless of his (her) ethnic traits or ancestry.

Other desegregation cases involving Hispanics included *Bradley* v. *Milliken*,[208] *Morgan* v. *Kerrigan (Morgan* v. *Hennigan)*,[209] *United States* v. *Board of Education of Waterbury*,[210] *Arvizu* v. *Waco Independent School District*,[211] *Zamora* v. *New Braunfels Independent School*,[212] *Soria* v. *Oxnard School District Board of Trustees*,[213] *Hart* v. *Community School Board of Brooklyn, NYC School District No. 21*,[214] *Tasby* v. *Estes*,[215] *Alvarado* v. *El Paso ISD*,[216] and *United States* v. *Midland Independent School District*.[217] Also, *Hernandez*, *Mendoza* and *Morales*.

In 1970 a Federal Court in California challenged placement of non-English-speaking children in classes for EMR (educable mentally retarded) and required the State to test all children whose native language was not English and to retest all children in classes for the retarded at that time.[218] In short, language discrimination, bilingual education, and national origin desegregation had a judicial history spanning more than half a century.

The first court case to hold that the principles of *Brown* applied to Hispanics as well as Blacks was *Cisneros* v. *Corpus Christi*[219] in 1970. The Federal District Court held that Mexican-Americans were an identifiable ethnic minority with a past pattern of discrimination and were entitled to separate remedies—which could include bilingual education. It also established that the degree of segregation in any given school could no longer depend on the ratio of the number of Whites to the *combined* number of *minority* pupils (Black and Hispanic) in that school.

This concept of tri-ethnic desegregation was followed in subsequent court cases. One court stated: "No remedy for the dual system can be acceptable if it operates to deprive members of a third ethnic group of the benefits of equal educational opportunity. To exclude Mexican-Americans from the benefits of tripartite integration in the very act of effecting a unitary system would be to provide Blacks with the benefit of integration while denying it to another group on the basis of ethnic origin."[220]

In *United States* v. *Texas*, the court ruled: "We see no reason to believe that ethnic segregation is any less detrimental than racial segregation." The judge mandated a comprehensive desegregation plan that included bilingual education for Mexican-American and Anglo-American students in the San Felipe Del Rio CISD. The basis for that order was the Court's prior determination that there had been *de jure* segregation.[221] The purpose of the order was, therefore,

to "eliminate discrimination root and branch"[222] and to create a unitary school system "with no Mexican schools and no White schools but just schools."[223] However, the court order was eventually thwarted by a combination of the hostility of the school board and lax enforcement by the Federal agencies charged with the responsibility to implement the plan.

H.E.W. MEMORANDUM

There was no doubt that although Title VI of the Civil Rights Act of 1964 prohibited discrimination and segregation on the bases of both race *and* national origin, only the "race" aspect was being generally enforced. The needs of national origin minority children had been largely ignored.

After compliance reviews by the U.S. Department of Health, Education, and Welfare (HEW) revealed a number of common practices which had the effect of denying equality of educational opportunity to Spanish-surnamed pupils, the HEW Office for Civil Rights decided in 1970 to remind local school districts of their Civil Rights (Title VI) responsibilities to national origin minority pupils. After a great deal of preliminary work, research, soul-searching, approval-seeking, and documentation had been done to establish the legal basis for the proposed message to LEAs,[224] an official memorandum was sent on May 25, 1970 to all school districts with five percent or more national origin minority enrollments.

The memorandum, signed by J. Stanley Pottinger, director of the Office for Civil Rights, expressed a concern with respect to disadvantaged Hispanic students as well as pupils from other national origin minority groups, such as Chinese and Portuguese. It did not mention segregation as an immediate problem, focusing instead on the linguistic needs of these children. It directed schools to be particularly mindful of the following:

1. Where inability to speak and understand the English language excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to those students.

2. School districts must not assign national origin minority group students to classes for the mentally retarded on the basis of criteria which essentially measure or evaluate English language skills; nor may school districts deny national origin minority group children access to college preparatory courses on a basis directly related to the failure of the school system to inculcate English language skills.

3. Any ability grouping or tracking system employed by the school system to deal with the special language skill needs of national origin minority group children must be designed to meet such language skill needs as soon as possible and must not operate as

an educational dead-end or permanent track.

4. School districts have the responsibility to adequately notify national origin minority group parents of school activities which are called to the attention of other parents. Such notice in order to be adequate may have to be provided in a language other than English.

ETHNIC DEMOGRAPHICS

It was a fairly well-known fact that at least 25 million people in the United States did not speak English as a mother tongue. This figure was considered very conservative by some demographers, who estimated the non-English-language background (NELB) population in 1970 to be as high as 43 million. Eight of every ten NELB persons were believed to have been born in the United States. Half of them spoke either Spanish (eighteen percent), German (fourteen percent), Italian (eleven percent), or French (seven percent). Five million of the NELB population were children, of whom three million regularly spoke their native language at home. (Spanish was the home language of 1.8 million children, including more than 300,000 Cuban refugees. In addition, close to 200,000 children spoke a variety of Indian tongues. The remaining one million spoke other languages, such as French, German, Italian, Polish, Czech, and Asian tongues.) The Census coded more than 72 languages in the U.S.

Four different means of identifying persons of Spanish ancestry were used: (1) birthplace, (2) Spanish surname, (3) mother tongue, and (4) self-identification. A question asking people to report if they were of Spanish *origin* or *descent* was first used by the Bureau of the Census. It was a subjective identifier in the sense that it represented the respondent's self-identification or perceived origin. Many people in the United States who had a typical Spanish last name did not consider themselves to be of Spanish origin. For instance, among all persons with a Spanish surname in the U.S., only about two-thirds reported that they were of Spanish origin. On the other hand, persons who considered themselves to be of Spanish origin or descent may or may not have had a Spanish last name. For example, one-third of the persons in the U.S. who reported they were of Spanish origin did not have a Spanish surname.

Although a little more than nine million Hispanics were counted, the Bureau of the Census admitted it had missed a significant portion of this population for a variety of reasons. Unofficial "guestimates" extended to fifteen million. The somewhat hyperbolic speculation was considered not only fair in the interest of a noble cause, but essential in view of the Census undercount. Thus, one could extrapolate the actual number of Hispanics to fall somewhere between these two extremes: probably around twelve million. It was believed that half of them considered Spanish their mother tongue.

Many major cities had substantial proportions of Hispanics. El Paso and San Antonio in Texas were 58 and 45 percent Hispanic, respectively. New York City, as well as Los Angeles and San José in California had 15 percent Hispanic proportions. Denver had 13

percent, Phoenix and Houston had 11 percent each.

Fifty-five percent of the Hispanics in the U.S. were Mexican-Americans and sixteen percent were Puerto Ricans. For the first time since mass migration from Puerto Rico began in 1946, more Puerto Ricans were returning to the island than leaving it in 1971. Returnees outnumbered emigrants by more than eighteen thousand that year.

Hispanic families were earning only 73 percent of the average American family income at the beginning of the decade. Computed separately, however, Puerto Rican families were earning only sixty percent of the American family average income.

Family Income in the U.S. in 1971

Ethnic Group	Median Income	Below Poverty Level
All U.S. families	$10,285	13%
Hispanic families	7,548	29%
Puerto Rican families	6,185	32%

There were more Puerto Ricans in New York City than in San Juan. Apparently, the initial immigrants were not the only ones to form clusters and remain in ethnically-identifiable population pockets. Even in modern times, the predominant ethnicity of many communities throughout the U.S. could be easily discerned.

Chicago had the largest Swedish population in the country, followed by New York City and the Minneapolis-St. Paul area. The greatest concentrations of American Poles were found in New York City, Chicago, Detroit, Philadelphia, and Pittsburgh. Most Ukrainians lived in or around New York City, Chicago, Philadelphia, Detroit, Cleveland, and Pittsburgh. Most Greeks in the United States were in New York; but many lived in Illinois, Massachusetts, California, and New Jersey.

As later immigration quotas became more equitable, more non-White, non-English-speaking immigrants were arriving. The fourteen thousand East Indians who arrived in 1971 constituted the largest number of immigrants from India in the history of the U.S.

The 1970 Census counted 591,000 Japanese, 435,000 Chinese, 343,000 Filipinos, and 70,000 Koreans. California was the residence of 40 percent of all the Filipinos in the United States, 39 percent of all the Chinese, 36 percent of the Japanese, and 24 percent of the Koreans. So many Koreans lived in the Olympic-Vermont section of Los Angeles, that the area became known as "Korea Town."

Koreans generally had much higher educational attainment levels than other ethnic groups in the U.S. According to the 1970 Census, 36 percent of U.S. Koreans over 25 years of age had completed at least four years of college. So had 26 percent of Chinese-Americans, 22.5 percent of the Filipinos, 16 percent of the Japanese, 12 percent of the Whites, and 4.5 percent of the Blacks. In the New York City Standard Metropolitan Statistical Area, which had the

second largest Korean immigration settlement in the United States, 53 percent of all adult Koreans had four or more years of college.

Apparently, Asian-Americans were doing all right for themselves. The story was somewhat different for new immigrants who could not function in English and tended to be isolated. In 1971, parents in San Francisco's Chinatown refused to allow their children to be transferred out of their neighborhood schools—where the enrollment was ninety percent Chinese—because they did not want them attending schools where they would be a minority, could be subjected to discrimination, and would be taught by teachers who they could not understand.

Other minority groups were faring worse than the Asians. Native Americans were probably at the bottom of the pyramid. The population of American Indians and Alaskan Natives (Eskimos and Aleuts) was estimated to be more than 800,000. This was a conservative estimate, stifled by faulty Census techniques and the reluctance of many people to identify as Indian.[225] Nearly 400,000 of the Indians in the contiguous United States were believed to be living on or near reservations. The largest centers of Indian populations in the country were believed to be in:[226]

Arizona	85,000	North Carolina	40,000
California	70,000	South Dakota	30,000
Oklahoma	65,000	Montana	22,000
New Mexico	57,000	Washington	22,000
Alaska	50,000		

Two separate concentrations were discernable in California: 40,000 were believed to live in the Los Angeles metropolitan area; 30,000 were estimated in the San Francisco-Oakland Bay area. Approximately 20,000 lived in the Chicago metropolitan area and 15,000 in the Minneapolis-St. Paul area.[227]

Unemployment in the reservations averaged between 50 and 75 percent (ten times that of the rest of the nation). The average Indian family income was $1,500 a year. Their life expectancy was 43 years at a time when the national average was 65.

The school dropout rate for Indian students was twice the national average. They averaged eight and a half years of schooling (not measured attainment, in which they lagged two or three years behind White children). However, the median number of years of schooling completed by Cherokees was five and a half; their dropout rate was said to be almost three times the national average.[228] Forty percent of all adult Cherokees were considered functional illiterates. There were enough American Indian teachers or administrators for only one percent of the Indian children in elementary schools.

The total number of students participating in Title VII bilingual programs doubled—to 52,000—in 1970-71, the second year of the program, and the amount of Federal money appropriated for Title VII tripled—to $21 million. It funded 131 basic programs.

In time, many other helpful programs would spin off the Bilingual Education Act. A modest Title VII grant, provided through New Jersey to the Children's Television Workshop (CTW), made possible the early bilingual segments on "Sesame Street." CTW continued the bilingual programming using other funding sources and bilingual actors became permanent features of the show. Other bilingual television programs for children, such as "Carrascolendas" and "Villa Alegre," soon followed.

Title VII, however, was still a voluntary research and development program. Its services were not reaching all the children that needed them.

THE MASSACHUSETTS BILINGUAL MANDATE

In 1968 a Spanish-speaking community worker named Sister Francis Georgia Vicente, observing certain children "visibly roaming the streets" of Boston, conducted a door-to-door survey in a Puerto Rican section of the city. Of the 350 Spanish-speaking school-aged children she found, 65 percent had never registered in school; many others rarely attended or had dropped out. Armed with these facts, Sr. Francis Georgia went to the Boston School Department to seek help in locating and providing meaningful programs for Spanish-speaking children who were out of school. Skeptical, Boston school officials told her to produce the "warm bodies." If she did, they said, "seats" would be found.

At about the same time, leaders from Boston's poverty communities formed a "Task Force on Children Out of School" to investigate the way the school system dealt with poor children generally. Among other things, the task force found that as many as half of Boston's estimated ten thousand Spanish-speaking school children were not in school.[229] In fact, only one Hispanic graduated from all the City high schools in 1971.

That year, through the efforts of community leaders and the support of key legislators (and after having failed in its first attempt) Massachusetts enacted the first law in the nation to actually mandate bilingual instruction. The Massachusetts law, signed in November 1971, called for each school district to take a yearly census of school-age children with limited English-speaking ability and to classify the children according to the language of which they possessed a primary speaking ability. It required the State to offer a program of up to three years of transitional bilingual education to such children whenever there were twenty or more within the district who spoke a common language other than English. The bill stated that the Commonwealth would provide financial assistance to compensate for the additional cost of such programs. Transitional bilingual programs were to be established in the year following the enactment of the legislation.

Massachusetts was the first to formalize the term *transitional* bilingual instruction to indicate that children would exit the program as soon as they were able to function in English. This distinc-

tion prevented students from remaining in the bilingual program for the purpose of maintaining their language and culture. In other words, the Massachusetts law treated bilingual education strictly as a remedy for children who could not speak English. The maintenance model, recommended by most bilingual advocates, was designed to produce a fully bilingual-bicultural individual. Thus, maintenance was seen as an enrichment program; transitional was considered compensatory.

It was, perhaps, fitting that Massachusetts—where American public education had its start—would hold the distinction of being the first state to have on its books a bilingual education law for the twentieth century. It was also noteworthy, in view of the fact that the Federal Bilingual Education Act had been passed on the basis of the needs of Mexican-American children, that the first State to enact a bilingual instruction mandate would do so on the basis of the needs of Puerto Rican children.

NEEDS CONFIRMED

Most new arrivals from Puerto Rico were young, of rural origins, and undereducated. Only nineteen percent were high school graduates; less than half had completed their primary schooling.

Puerto Rico was allocating one-third of its annual budget to public education, but in 1973 that was only $513 per pupil—the lowest in the nation. The island averaged around one classroom teacher for 31 students. Some 38 percent of the teachers had not completed four years of college and eight percent had less than two years of higher education.

Student dropout was fairly severe. Only one-third of the students enrolled in the first grade in 1960 graduated from high school in 1972. Some victims of the dropout syndrome were the English-dominant returnees from the States. Nearly 26,000 students in the public schools of Puerto Rico during the 1971-72 academic year were limited Spanish proficient as a result of having started their schooling in the U.S. Mainland,[230] where they had not been taught to read or write in Spanish. Their circular migration pattern was a classical justification for bilingual-bicultural education. With one foot in each world, these youngsters lived alternately in two separate cultures and had to function in two different languages.

The reluctance of so many Mainland schools to provide bilingual instruction and other vital services to national origin minority students was effectively starving these children academically but—more importantly—it was dashing their hopes for a productive future.

Only a small percentage of the students identified as being unable to function in English were receiving special help. The vast majority were still handicapped by their schools' inability—or unwillingness—to provide them an equal educational opportunity. By eighth grade, 64 percent of the Mexican-American students in the Southwest were six months behind their expected grade level in

reading. Yet, only eleven percent were receiving remedial reading instruction and only five percent were enrolled in ESL classes.[231] Less than three percent were enrolled in bilingual classes. Nearly half of the Mexican-American students in Texas were dropping out before completing high school. (Some estimates placed the dropout rate as high as eighty percent.) Bilingual education, many theorized, was the only hope for these youngsters. That theory, however, was not yet supported by empirical data.

As early as 1972, G. Richard Tucker and Alison d'Anglejan of McGill University urged administrators and educators to begin to devote more of their attention to defining accurately the characteristics and objectives of their programs and to setting up long-term evaluation procedures. To provide a focus for their evaluation, they recommended that researchers adopt the following four widely-held beliefs as their working hypotheses:

1. Children who are instructed bilingually from an early age will suffer cognitive or intellectual retardation in comparison with their monolingually instructed counterparts.
2. They will not achieve the same level of content mastery as their monolingually instructed counterparts.
3. They will not acquire acceptable native language or target language skills.
4. The majority will become anomic individuals without affiliation to either ethnolinguistic contact group.

Although Tucker and d'Anglejan were quick to suggest that these four hypotheses were myths, they explained that each represented an important belief, fear, or perhaps even a hope shared by lay people and professionals from diverse backgrounds in many communities.

One of the earliest research projects on bilingual education in the 1970s was an international bilingual education project directed by Dr. Alexander Plante and supported by the Hazen Foundation. It compared bilingual approaches in Connecticut (the project's home base), New Jersey, Sweden, and the Netherlands. The project showed that increased self-esteem resulting from bilingual instruction translated into better performance in the classroom.

In another study, Spanish-speaking students participating in the "Arriba" bilingual program in Philadelphia were found to be twice as likely to graduate as were their non-participating Hispanic peers throughout the city. Those who had been in the program since tenth grade were four times as likely to graduate as were non-participating Hispanics in the same school. The program was directed by Dr. Eleanor Sandstrom.

In San Francisco, 135 Chinese children (many of whom were recent immigrants) enrolled in a bilingual-bicultural program for grades one through three scored one and a half years ahead of students in the District's ESL program in reading and math. They scored one year ahead of all students in the district and five months ahead of the national norm for third graders.

THE ST. LAMBERT EXPERIMENT

Just about the time bilingual education was beginning to gather momentum, in 1972, the movement was rocked somewhat when a team of respected scholars, Wallace Lambert and Richard Tucker, released the results of a study that seemed to support teaching in a second language by total immersion.[232]

The research evaluated an immersion program for Anglophone Canadian children who were taught exclusively in French in kindergarten and first grade, and primarily in French from grades two through four, except for one hour of English language-arts instruction each day. At the end of the fourth grade, the children read as well in English as the English control group. They also performed extremely well in French when compared with French-Canadian children in a regular French program. In addition, it was found that as skill with the other language evolved, attitudes toward the other ethnolinguistic group became less suspicious and hostile. The pupils' attitudes toward French-Canadians were basically the same for both groups as of the kindergarten year. By grade five, however, the early immersion pupils relative to the controls "liked" French people more, were much more prone to say that they would be "just as happy" had they been born into a French family, and saw themselves as becoming both English and French-Canadian in their makeup, much more so than the comparison children. Apparently, through their language learning experience, much of the foreignness of the other group had been dispelled, and they had begun to appreciate the distinctive and the shared characteristics of the other ethnolinguistic group.

While this and other studies yielding similar results were cited frequently as evidence that it was unnecessary to use the native language for instruction, educational researchers pointed out that the socioeconomic background, student self-concept, and school-pupil relationships in the St. Lambert experiment were quite different from the conditions surrounding the experience of language minority children in the United States. Essentially, the children in the St. Lambert experiment belonged to the dominant linguistic and cultural group. Rather than being compelled as a minority group to learn a second language, students were considered privileged to be receiving instruction through another medium. Experts believed that immersion in a second language could be successful when:[233]

- children came from middle- or upper-class homes
- children's linguistic development in the native language was high
- the home language had high status in the community
- there was a strong incentive for the children to learn a second language
- there were positive expectations for student success
- there was strong community and parent support for the program

- children remained in school past the first few grades
- program quality was high and was specifically designed for children who were learning a second language

Conversely, experts suggested that beginning the teaching in the mother tongue was preferred—and was academically and psychologically beneficial:

- for children who came from low-income families and who were not proficient in their native language
- in communities where the home language had low status
- for students likely to leave school in the early grades
- where teachers were not members of the same ethnic group as the students and may have been insensitive to the values and traditions of their students

LACK OF LOCAL COMMITMENT

Of the six million children estimated to be of limited English-speaking ability in the United States, five million were said to be Hispanic. Of the 164 Federally-supported bilingual programs in operation in 1971-72, 130 were exclusively for Spanish-speaking students.

In fact, the location and linguistic type of these projects reflected the size and distribution of the Hispanic population in the United States. The programs were largely centered in Texas and California, with New York State having the next highest number. Other languages used in Title VII bilingual projects included Portuguese, Chinese, Russian, and French as well as Eskimo Yup'ik and twelve tribal American Indian tongues.

A $25 million Title VII appropriation served nearly 84,000 students during that year. Another 66,000 students were in bilingual programs funded through other means. Around 1972, 32 states were reporting students in bilingual education programs.

Some of these students were participating in programs funded by other (non-Title VII) Federal sources and others were in programs funded by local educational agencies. Those in Massachusetts were taking part in new programs funded—and mandated—by their state. The benefits of these programs, however, were not yet felt. In Boston, for example, ninety percent of the Puerto Rican pupils never made it to high school.[234]

Not surprisingly, the provision of educational services to these children was generally a low priority in many school districts. Observers linked this neglect to the lack of political and economic power in Hispanic communities. If, indeed, the extent of children's access to resource allocation was directly proportionate to their parents' influence in policymaking, they reasoned, then Hispanic children were the most powerless, for they belonged to a socially barred and economically disadvantaged ethnic minority without representatives in Federal, State, or local government.[235]

Only one Hispanic group, the Cuban community, was having some measure of educational, economic, and political success. In fact, Dade County declared itself a bilingual jurisdiction, and Spanish became the second official language for such things as election ballots, public signs, and local directories.

The economic indicators of 1973 offered a profile of the conditions of Hispanic families in the United States. While eleven percent of all U.S. families earned below the low-income level, 22 percent of the Hispanic families were below that level. Three percent of all U.S. families had an income below $2,000, but four percent of the Hispanic families did.

Hispanics were underrepresented in the high salary scale and overrepresented at the low-income level. Their poverty added to the burden of the cities, for sixty percent of U.S. Hispanics lived in metropolitan areas. (The national average was 39 percent.)

Public schools were normally funded by local property taxes. Thus, the lower the property values, the lower the quality of the schools. This method of school subsidy was challenged in *Rodriguez v. San Antonio Independent School District* as unconstitutional because it tended to foster inequality. The case was ultimately decided by the U.S. Supreme Court, which ruled in 1973 that wealth-based school financing discrimination did not violate the equal protection clause of the Fourteenth Amendment essentially because education was not a fundamental right since it was not guaranteed by the U.S. Constitution.

In addition to lacking the money to support programs in bilingual education, many school districts lacked the interest to implement the programs. Many perceived bilingual programs as a sort of nuisance and did little more than patronize bilingual advocates. Some school administrators, noting the number of different languages spoken by the students in their districts, wondered aloud—and rhetorically—if they would be expected to offer bilingual instruction using every single language present in the district. In 1973, for example, school children in San Francisco were coming from homes where 63 different languages were spoken.

Because of this unwillingness or inability of many local districts to invest their own money in bilingual programs, educational administrators generally had to package financial aid for bilingual programs by combining often-unrelated grants in order to implement their projects. This fiscal juggling happened even in school systems with somewhat generous budgetary support for bilingual education. For example, since Title VII would not pay for classroom teachers, in 1972 Chicago used the Emergency Employment Act of 1971 to pay for teachers in a Title VII program.[236] Some states combined funds from Titles I, III, VII, and other titles of ESEA to subsidize bilingual programs. In this regard, while many bilingual practitioners were displaying an amazing ability in grantsmanship in their efforts to keep the programs in operation, they were losing sight of the experimental goal of Title VII.

In 1972-73, the Title VII appropriation was increased to $35 million. The number of basic programs increased to 217 and the

number of students served increased to 108,800. That year Federal administrators were talking about "planned variations." The phrase, which probably originated among the education components of the Model Cities Program,[237] meant that bilingual programs were expected to be different from one another in a *planned* way, so as to discover and validate methods that worked best. The idea was to have each district design an innovative project, collect reliable data to document it, and make the model available for replication by other districts. Unfortunately, too many administrators disregarded the intent of Title VII and used the funds instead to simply sustain the program for as long as they could—often supplanting services that local districts were responsible to provide with their own budgets.

The extent to which school districts were willing to use their own local revenues to provide bilingual education was, perhaps, the most accurate indicator of the genuine interest in this mode of instruction. There is no doubt that if there had not been a Federal "carrot," there would not have been bilingual instruction, despite the fact that proposals submitted to Washington requesting Federal funding highly praised the virtues of bilingual education.

In an effort to force local commitment, Sen. Joseph Montoya (D-NM), introduced a bill (to amend the Bilingual Education Act) in which it was requested that local districts match Title VII funds at the rate of 25 local to 75 Federal. Sen. Edward Kennedy (D-MA), on the other hand, drafted a bill suggesting that Federal bilingual programs be centralized and expanded. The administration, for its part, was sponsoring the Better Schools Act, which would have made bilingual education funds available in the form of revenue sharing. Two "gut" issues were raised during the hearings for the Kennedy bill, which had been introduced with California's Sen. Alan Cranston as the Bilingual Education Reform Act of 1974: (1) how much bilingual education should LESA students receive before they can be mainstreamed and (2) who would determine the success or failure of a bilingual program.

The question of whether local projects should be a "transitional" (to English) program or a "maintenance" (of the home language and culture) approach appeared to be the one most important issue of local projects. Transitional programs were designed to assist linguistically different students to "catch up" with English-speaking children in English-speaking ability so that they could enter quickly into the traditional education program. Maintenance programs emphasized the use of the child's language and cultural traditions as media of instruction before *and after* English competence was achieved. The U.S. Commission on Civil Rights supported the broader concept of maintenance.

ALTERNATIVE FUNDING SOURCES

The provisions of the Elementary and Secondary Education Act (ESEA) of 1965 were supposed to run in five-year cycles. Thus, Title VII of ESEA (Bilingual Education Act) was due for re-authorization in 1973. The vagaries of political and economic life being what they

are, however, the fate of the Bilingual Act was in doubt for a time early in 1973. The sweeping reorganization of governmental departments under the Nixon administration resulted in the elimination of some social services and educational programs or in their placement under different governmental authorities. Congress did take action, however, to continue the Bilingual Act on a one-year basis with the same funding as the preceding year: $35 million. Bilingual projects already in operation and approved for continuation were assured of receiving funding for the 1973-74 school year though no applications for new projects were to be accepted.[238] In fact, the number of basic programs decreased to 211, which were spread over 28 states, four territories, and the District of Columbia. California and Texas accounted for nearly half of these projects. Although Spanish was overwhelmingly the home language most used in bilingual programs, there were programs in Chinese, French, Navajo, Portuguese, and several other—mostly minority—languages. Ten states were spending their own monies on bilingual education. California and Massachusetts were leading the state expenditures with four million dollars each.

An attempt to enact a bilingual law similar to Massachusetts' failed in Colorado in 1973 but succeeded in Illinois that same year, followed in 1974 by Texas (which only four years earlier outlawed instruction in any language other than English). Bilingual instruction was also mandated in Pennsylvania by an executive memorandum, issued by the Commonwealth's secretary of education, which had the same force as a law. Although not necessarily mandating bilingual education, laws permitting its use under certain circumstances were enacted by the state legislatures of New Mexico and New York in 1973.

The aforementioned laws varied in scope, purpose, and financial commitment. Some states went beyond the requirements of law and others circumvented their own laws to provide services to LESA students. Laws in Alabama, Arkansas, and West Virginia prohibited teaching in any other language but English. Similar laws existed, but were not enforced, in Delaware and Nebraska.

Many states remained silent on the issues of bilingual instruction. But several of them, nonetheless, were providing services to LESA students. Some southern states were still receiving Cuban refugees who were enrolling their children in the public schools. Foreign capital investment in industries was also pulling in some LESA children. South Carolina, for example, was educating students who spoke French, German, Korean, Russian, and peninsular Spanish in 1974. In most cases, these children appeared singly in the classroom composition and, except for their own siblings, singly in the entire school's—or district's—population. Thus individualized services had to be provided to meet the needs of these youngsters.

In 1974, although bilingual education was not compulsory in California, that State's legislature appropriated four million dollars to fund bilingual programs. Similar fiscal support was evident in

Illinois, where the law mandated bilingual education. Unlike most other states with large non-English speaking populations, most Illinois bilingual programs were funded from State revenues. From 1970 to 1973, State funds for bilingual education increased tenfold. In 1973, some 49 bilingual programs were State-funded, nine were Federally-funded (ESEA Title VII), and one was funded by the Chicago Board of Education. (The city of Chicago also contributed to some of the other bilingual programs above the city-wide per capita expenditure level.) Half of the bilingual programs were outside the city of Chicago. The Illinois General Assembly appropriated six million dollars for bilingual programs in fiscal year 1974. This additional revenue allowed the number of Chicago projects to increase to 57, and the downstate projects to 35. The number of children served in bilingual programs jumped from five thousand to fifteen thousand.[239]

By the following year (1975) Illinois was reporting 105,300 bilingual students in the public schools. More than half of them were Spanish-speaking (Mexican-American, Puerto Rican, and Cuban). The remaining 45,800 were speakers of one of 133 different languages. The largest concentrations were found in Greek (2,600), Italian (1,900), Polish (1,700), Chinese, and Arabic (1,100 each).

By and large, bilingual education in most states was an adjunct program conditioned upon the availability of "soft" monies and involving only LESA students. There were many reasons for this. The most obvious and most often-cited reason was that the districts with the greatest need for bilingual education were the ones that could least afford the additional cost that was associated with the programs. Hispanics, who were estimated to constitute around eighty percent of the participants in bilingual programs, were—along with Native Americans—at the lowest income level in the nation.

In any event, there were at least a dozen other funding sources that could be used to provide bilingual education or related services to LESA children, in addition to Title VII of ESEA. The most obvious were Title I (especially the migrant allocation) and Title III. Other titles of ESEA were also used either directly for bilingual programs, or for supportive and auxiliary services, such as ESL, purchase of materials, and others.

Some districts impacted with high enrollments of Cuban children received sizable sums of money from the Cuban Refugee Aid Act. Other districts were using Indian Education Funds for bilingual instruction. Funds targeted for special populations were, of course, available for LESA students who met the funding criteria. These included the Head Start and Follow Through programs of the Economic Opportunity Act, as well as Adult Education, Right to Read, and Education for the Handicapped.

Part B-2 of EPDA (Education Professions Development Act) was used for bilingual teacher training. Many unaccredited Cuban teachers, for example, were trained and credentialed at Montclair State College in New Jersey using B-2 funds in the early 1970s.

Other bilingual teachers were trained through Teacher Corps.

Another source of Federal funds which could be used to meet the needs of limited English speakers was appropriated in February 1973 to implement the Emergency School Aid Act (ESAA), which had been enacted as Title VII of the Education Amendments of 1972. The primary intent of this Act was to aid school districts undergoing the process of school desegregation. The Act reserved a minimum of four percent of annual appropriations for bilingual-bicultural education on the assumption that national origin isolation required desegregation remedies. Bilingual-bicultural education, the regulations stated, would be one of the essential tools in carrying out a desegregation plan involving national origin students. ESAA regulations stated that schools which assigned students to or within classes in a manner resulting "in the separation of minority group from non-minority group children for a substantial portion of the school day" were ineligible for ESAA funding. These regulations interpreted "substantial" separation as separation "for more than 25 percent of the school day classroom periods." Thus, where the separation lasted for more than 25 percent of the day, the presumption was raised that classroom or tracking assignments were impermissibly based on race, color, or national origin.

Bona fide ability groupings, however, were exempted from this presumption and prohibition. A bona fide ability grouping had to meet four requirements.

1. Placement in the group must be based on educationally-relevant, nondiscriminatory, objective standards of measurement.
2. The grouping must be maintained during the school day for only as long as necessary.
3. It must be designed to meet the students' needs and to improve academic achievement and performance through specially developed curricula taught by trained instructional personnel.
4. The grouping must be shown through objective testing to be educationally beneficial.[240]

In other words, if bilingual programs for students with limited English-speaking ability resulted in ethnic separation within schools, prevailing case authority and Federal regulations would have sanctioned them as bona fide ability groupings, provided acceptable justification could be offered. Thus, denying bilingual education on grounds that it violated desegregation mandates was not longer permissible. Seventy-five percent of the total bilingual appropriation of ESAA was to be used for the actual implementation of programs. In addition, one percent of the total appropriation was reserved for evaluation of programs. This plus the fact that, for the first five years of implementation, ESAA projects were approved and administered by the regional commissioner of the Office of Education (rather than from Washington) resulted in much closer Congressional scrutiny than that under Title VII ESEA programs. There were forty ESAA bilingual projects in a dozen states. Texas had nearly half of them.

9 Ethnic Awareness Movement

STILL ANOTHER SOURCE of funding that could be used for bilingual-bicultural type programs became available in April 1974, when Congress appropriated $2.4 million for the implementation of the Ethnic Heritage Studies Act. Through the collaborative effort of Sen. Richard Schweiker (R-PA) and Rep. Roman Pucinski (D-IL), the bill was signed by President Nixon in 1972 as Title IX of ESEA. The stated purpose of the Act was to provide grants for the development of studies to afford students the opportunity to learn about the different and unique contributions made by each ethnic group to the national heritage. It called for the establishment of research centers on different ethnic groups in different parts of the country "to develop curriculum materials for use in elementary and secondary schools which deal with the history, geography, society, economy, literature, art, music, drama, language, and general culture of the group with which the center is concerned."

A newborn interest in national origin had created a clamor, not only for languages, but for cultural studies as well. The nation had picked up the slogan "Black is Beautiful" and carried it to its logical conclusion by applying it to all ethnic groups. Bumper stickers, T-shirts, posters, and buttons announcing "It is Great to be Italian," "Proud to be Polish," and "Kiss me, I'm Latin"—as well as Afro haircuts and Sioux headbands—began to appear everywhere. Soul food became a respectable gourmet.

Perhaps the most important manifestation of one's national origin was speaking the mother tongue. It buttressed one's ethnic identity, enhanced one's prestige within one's own group, and gave credence to one's ability to provide more rounded interpretations of the group's needs to persons outside that domain. Others in the group tended to regard those who could speak their language as individuals who were not "stuck up" (or who felt they were better than the rest of the group). They were also viewed as unco-opted by their education and their participation in the dominant society. Accordingly, they were trusted and respected. This criterion, however, was sometimes carried to extremes. Second generation Americans, who did not speak their parents' language well but who wanted to participate in the work of their ethnic groups, were occasionally not permitted to communicate in English by radicals in the group.

Many veterans of the Civil Rights struggle viewed the initial stages of the White ethnic, national origin, and women's equity

movements with dreadful suspicion. Some feared these to be cynical attempts to mock and dilute the Black Liberation Movement. Others felt they were envious efforts to exploit a legitimate crusade. While this may have been true in some cases, bad intentions were usually ill-disguised, and the few who were thus motivated lost out to the enthusiastic zeal of legitimate activists. The vast majority of America's ethnic groups and others involved in campaigns that spun off the Civil Rights movement were truly sincere in their efforts.

While, understandably, many immigrants had good reasons for not wanting to return to the homeland whence they came, it was clear that most of them did not suffer from cultural amnesia. In fact, the 1970 Census revealed that 83 percent of all Americans classified themselves as members of some ethnic or racial group, although most of these people were at least third generation Americans. No longer apologetic about their ancestry, ethnic and racial minorities were proudly proclaiming their ancestral roots without for a moment considering it to be mutually exclusive with being good Americans.

To be sure, this was not the first time in American history that ethnic groups had engaged in this aspect of patriotism. Several groups had celebrated their national origin before to various degrees—some in quiet dignity, others publicly. A few individuals unfortunately, had surpassed the limit of good taste by boasting about their ethnic superiority in a manner approaching racial chauvinism, even bigotry. Many had felt it necessary to disdain other ethnicities in order to divert societal contempt from themselves.

The 1975 NEA publication, *Roots of America*, listed the following four societal assumptions that had burdened this nation as a result of the melting pot fallacy:

1. The self-worth of an individual was directly related to the extent of the individual's conformity to the monocultural ideal.
2. To whatever degree a person looked, behaved, or sounded different from the monocultural ideal, that person or group was inferior.
3. The culturally different were not to be trusted.
4. In order to avoid being treated unfairly when dealing with persons or groups who were culturally different, it was necessary to establish the superiority and power position of one's own group.[241]

THE NEW PLURALISM

Happily, the pluralistic movement of the seventies was cultural democracy at its best, with each group exploring, celebrating, and sharing its own cultural heritage while at the same time displaying curiosity, respect, and appreciation for the cultural ethos of others.

A significant boost to this movement was provided by a book tracing the origin of an Afro-American family from an African named Kunta Kinte. *Roots*, published around the mid-seventies by author

Alex Haley, was acclaimed as "an epic destined to become a classic of American literature"—even before its publication.[242] (A condensed version had appeared in *Reader's Digest* in 1974.) The story served as the basis for a 1977 special television series, which broke viewing audience records and led ABC-TV to the biggest rating ever achieved by a network for one week.[243]

Ethnology became an important branch of anthropology as educators, sociologists, and researchers confirmed the fact that the unmeltable Americans were not exactly a minority—racially, ethnically, or numerically. Even those who were generations away from the national roots of their forebearers displayed certain characteristics and folkways that tended to distinguish them.

A systematic study of the residents of Levittown, PA found that after they got themselves settled, the new Levittowners sought out those most like themselves—those in the same ethnic groups. The ethnic connection apparently was real despite all the pressures to assimilate.

Research had shown that there were objective, measurable, observable behavioral traits which were strongly linked to ethnicity. (Mediterranean groups, for example, accentuated their speech with manual gestures; Germanic groups usually did not.) Thus, people from the same ethnic background tended to develop a pattern of synchronization in their conversation, which was difficult to establish across ethnic lines.

These subtle but important considerations led some psychologists to the practice of ethnotherapy. The differing meanings of eye contact, spatial relations, time consciousness, competitiveness, and other nonverbal manifestations of culture had caused misunderstanding, mistrust, and international incidents since time immemorial. With the new sensitivity toward other cultures, however, it was hoped that many of these intercultural interferences—such as biases and stereotypes—would be removed. An overambitious goal, but a noble one.

One serious flaw of the cultural diversity movement was the way it "allowed" people to be different. The pluralistic philosophy held that it was all right to be different. Not desirable, it implied, but acceptable. This *deficit* model misrepresented the reality of American immigration. In point of fact, it was not simply okay to be different; it was natural. And since "difference" was a *mutual* phenomenon, if one group was different, the group to which it was being compared was different as well. A rather elementary observation, but a point that was missed by many who insisted they were not different, but that others were.

INSENSITIVE STEREOTYPING

Possibly the most valuable forte of the pluralism campaign was the way it confronted negative stereotyping with factual, historical, scientific, and statistical information. Stereotyping had arisen apparently with attempts to evaluate a new ethnic group in the com-

munity—or "the new kid" in school. Too often an entire group was characterized by the attributes of its most visible members—those who had the most difficulty adjusting to the new environment. While it was understandable that this sorting was one of the major means of organizing life and making it predictable and comfortable, unfavorable stereotyping on the bases of race, national origin, sex, disabilities, or other nonvalid reasons had devastating effects upon its targets. It led to labeling and namecalling which struck at the dignity of its victims.

To be sure, abusive terms could be used good-naturedly when everybody in the exchange belonged to the group denoted by the term and shared the same attitude toward it. Blacks, for example, could banteringly call one another *nigger*, but there was no way that a White person—however sympathetic and otherwise part of the group—could justify using the term. Invectives could even be ritualized, as they were among Black adolescent street gangs in "the dozens" or "sounding"—wherein two youths exchanged imaginative insults centering on each other's family, particularly their mothers. The aim was to top the other person's insult in exaggeration, grotesqueness, and humor. Insult was also ritualized, with a good deal less finesse, in the way military drill instructors addressed new recruits.

However, labels and other forms of prejudices quite often resulted in the denial of the very opportunity which could have helped to dispel the stereotypes or overcome their negative impact—thereby fulfilling their own prophecy. This paradox was similar to voting against a candidate because he or she could not win, or denying jobs to certain applicants because "they don't want to work." Stereotypes led to low or negative expectations of minority students and thus low achievement and, eventually, total failure. The failure, in turn, rationalized continued discrimination against the group and the vicious cycle would continue.

The new sensitivity resulting from the Civil Rights crusade helped a great deal in eliminating some of the friction that had existed among the various racial, ethnic, and cultural groups. It helped to make the schools, as representatives of the dominant society, somewhat more compatible with the homes of the minority communities. These two important cultural institutions had long competed for the loyalty of their mutual children. Ultimately, the children had to disappoint either the teachers or the parents. This was the dilemma facing a Hindu student who was trained from childhood never to eat meat, but the American teacher insisted that meat was necessary for protein in the diet.

Many Latino children, taught at home never to stare at adults—not even when speaking to them or vice versa—found it incomprehensible when told by the school that eye contact conveyed trust. Teachers were known to have lifted children's chins up while scolding them.

A teacher whose credentials were excellent, but who had never taught Navajo children, noticed that one of her third-grade boys was

covered with what looked like soot and grease. She asked him to wash and when he refused, she washed him. The boy never returned to school. It turned out that his family had conducted a healing ceremony on his sick sister, and the "soot" and "grease" were an important part of the ceremonial painting. With her soap and water, the Navajos believed, the teacher had destroyed the healing powers of the ceremony. The girl died and nothing would convince the parents that it was not the teacher's fault. No member of that family ever set foot in a school again.

Many children whose parents hailed from minority national origins discovered the world of prejudice when they entered school—most often from encounters with other students. Hispanic children were known to adopt Anglicized mispronunciations of their names in an effort to assimilate into the mainstream of their schools.

East Sutherland Scottish children in the U.S. were disciplined for speaking Gaelic as would befit using profanity. Small wonder some grew ashamed of their mother tongue and the culture associated with it. Many dropped out of school for this reason. Children of German immigrants were not permitted to speak Pennsylvania Dutch in school, even as they watched other students learn modern languages—such as German.[244] One product of the Civil Rights crusade was a noticeable decrease in open verbal exchanges among students. Many people observed cynically that the improved relations were not as much a result of love blossomed as of hostility curbed. That prejudice had simply gone underground was evident in the racially-offensive graffiti found around many of the schools.

Some children of mixed parentage could be observed shying away from their minority ethnic parent—especially as they progressed through the middle and high school grades—and gravitating toward the White Anglo parent, presumably to escape persecution. This defense mechanism, which could obviously be used only by children who could blend with the dominant school population, was emotionally devastating to the rejected parent.[245]

TREATMENT OF MINORITIES IN TEXTS

Another product of the Civil Rights movement was the awareness of biased and inaccurate portrayal of U.S. minorities in textbooks, films, advertisements, and other mass media. Studies conducted by various institutions revealed an incredible number of demeaning statements or passages ranging from well-disguised patronizing stereotypes to blatant misrepresentation of the facts in textbooks commonly used by schools to teach history and social studies.

The rationalization of slavery and distortion of the Black experience in U.S. history books were well-known phenomena to most Americans in the 1970s. So were the conquest of the Native Americans and their portrayal as savages by Hollywood. The history of the United States was still written from the European perspective, how-

ever: thus Columbus was said to have "discovered" America, thereby ignoring the very presence of well over a million Native Americans and their governments as well as fifty thousand years of their history and culture. The name erroneously given by Columbus to the natives had been maintained for nearly five centuries—to the extent that even natives used the name for themselves. And, of course, Columbus "took" (not kidnapped) natives to Spain.

One study of the treatment of Hispanics in textbooks found two prevalent themes permeating. Hispanics were (1) usually described as living a life of poverty in an isolated Hispanic environment and (2) frequently associated with violence (members of inner-city gangs). Their achievements, if cited at all, were usually covered in one small paragraph. Mexicans were pictured as *bandidos* chased across the border by American heroes. History books seldom referred to the many Mexicans who died inside the Alamo defending it. Cuba was sometimes mentioned in the context of malaria and other tropical diseases or else as a playground for rich Americans. Ponce de Leon was characterized as a foolish man whose only contribution to history was his legendary search for the fountain of youth. There was no mention of the fact that he had been in the first group of Europeans that came to the United States, or that he had been the first governor of Puerto Rico and Florida.

There were no studies dealing with the Nazi Holocaust, an act of genocide that had taken the lives of so many relatives of Jews now living in the United States. It was as if the Holocaust had never happened.

Extensive stereotyping of Asian and Pacific Island Americans was found in widely-used reading and social studies textbooks. Many books misrepresented Asian Americans as "foreigners who all look alike." Otherwise, they were often portrayed as a model minority for whom success was measured by the extent to which they had assimilated or accepted the values of the White middle class. About their skills, textbooks gave them credit for building railroads or working in service industries—household servants and launderers—but there was no explanation of the historical forces responsible for their presence in these limited roles.

One might have expected the authors to have been far more sensitive in dealing with White minorities or women, especially since many of the authors were themselves women, members of White ethnic groups, or both. Yet in the bulk of the texts examined by the various studies, authors generally advanced a melting pot concept that was totally oblivious of the ethnic diversity of America. Cultural differences were sometimes portrayed as transitional phenomena that would disappear as soon as the new immigrants became Americanized.

This ethnocentric brand of historiography did nothing to teach American school children respect and appreciation for cultural differences. It was especially damaging to the children of nonmeltable minorities because it placed no value on their heritage, language, physical appearance, and other characteristic legacies of their na-

tional origins. Adding to this were significant geographical and political misrepresentations concerning the birthplace of many of our immigrants.[246]

In an attempt to overcome some of these shortcomings in textbooks, curriculum, and teacher preparation, a number of states (New York, Pennsylvania, Washington, Maryland, Illinois, Kansas, Michigan, Oklahoma, and California) issued mandates—emanating from the chief state school officers—regarding the teaching of ethnic studies. Although the writers of these directives may have been reacting to the Black Revolution, it was clear that they meant to foster an interest in ethnic groups generally. The Pennsylvania Department of Public Instruction, for example, criticized national education policy because it had been one of "minimizing cultural differences and Americanizing all those who were assimilable." The House of Representatives of the State of Kansas passed a resolution calling for the integration of minority history into the regular curriculum at all levels.[247] The State of Maryland budgeted $100,000 just for inservice training courses to work for attitudinal changes among Maryland teachers with respect to minority groups, their life, and history. Large metropolitan centers, such as New York, Chicago, Los Angeles, and Philadelphia also began significant programs in the area of ethnic studies. The St. Dominic Regional High School in Lewiston, ME developed a cultural center for Franco-Americans with materials donated by the Quebec Ministry of Culture. In Utah, the Uintah School District developed an ethnic studies, history, and language program for Ute children—including an orthography.[248]

Yet many educators were still at the "contributions" stage in their understanding of ethnic studies. They simply wanted to show that American life had been significantly influenced by others besides White Anglo-Saxon Protestants. Although this was important, genuine pluralists insisted that was only the first step and schools had to "shift gears" toward more significant, more substantive interaction.[249]

The enthusiastic response which greeted the Ethnic Heritage Studies Act was evidence of the rising tide of interest in this regard. The submittal of more than a thousand applications from every state and territory vying for 42 Title IX grants in 1973 was an indication of the level of interest in this type of modification to the curricula of the nation's schools. Although fewer than three percent of the applicants were funded that year, it was obvious that cultural pluralism had become a government priority, albeit cautiously low. A broad spectrum of ethnicity was evident in the applications; 34 different ethnic groups were associated with the proposed initiatives.

NON-PEDAGOGICAL BENEFITS

The Ethnic Heritage Studies program was an important supplement to bilingual education and, in fact, became part of the general bilingual movement. The relationship of language to culture and

vice versa was deemed so critical that the words bilingual and bicultural were often found in a hyphenated embrace during the bilingual education movement of the 1970s. However, this drive toward cultural and linguistic pluralism alarmed many citizens who feared it would cause ethnic groups to peel off the societal mainstream. This was not the American way, they argued, it was against the melting pot ideal and against the nation's motto, *e pluribus unum*.

Proponents of multicultural and bilingual education saw it differently. They had reasons to believe that "melting pot" was a euphemism for *Anglo conformity*, which was by nature very selective and had kept many ethnics on the periphery of American society. They saw nothing unifying about that. In lieu of an unworkable melting pot notion, they advanced the concept of cultural pluralism in which all cultures would be respected and nurtured as a matter of national policy. They regarded cultural and linguistic continuity between home and school as desirable, beneficial, and necessary. And, they concluded, non-English-speaking communities had as much right as English speakers to use public schools to transmit their language to their children.[250]

This notion drew fire from Noel Epstein, a *Washington Post* columnist, who objected to Federal government support for native language maintenance. Epstein argued that earlier immigrants who wished to maintain their language and culture had done so through private schools, not public funds. More to the point, he saw the recent bilingual movement as an extension of the affirmative action effort and assiduously referred to it as "affirmative ethnicity."[251]

The charge, although unwarranted, was difficult to debate because bilingual education encompassed practically all the elements necessary to improve the quality of life for Hispanics in the United States. The movement was as much an ideological, sociological, economic, and political phenomenon as it was a pedagogical strategy. It involved the issue of language loyalty, a bond to nationality, and a source of hope for increased self-determination. The willingness to make radical changes in the method of instruction to accommodate the learning style of a disenfranchised minority signaled a softening in societal attitudes toward diversity and a spirit of generosity in the distribution of resources. It obviously created a market for bilingual goods and services. It gave the Hispanic constituency a visibility it had not enjoyed in modern times and carried with it the promise of a better educational opportunity. Increased educational levels, more options, better economic status, a change of attitudes, higher aspirations, and a greater degree of political sophistication spelled *power* in any language. Understandably, Latinos considered any Anglophone-American (White or Black) criticism against bilingual education as an expression of prejudice and as an assault on Hispanic culture, identity, and civil rights—indeed, as an act of racism.

Bilingual education, thus, became the single issue that united the different Hispanic groups, who had labored independently until then. Together they sought coalitions with other minority groups and made an issue out of their language needs in courts and legislatures after prior efforts to advance in employment, housing, and education as a whole had failed. America's history of ethnic politics made such a move plausible—a fact of political life.[252]

10 The Peak of the Bilingual Movement

HISTORIANS AGREE THAT 1974 was a banner year for bilingual education in the United States. It was the year of a landmark Supreme Court decision, an important consent decree, the first reauthorization of Title VII, and other victories for bilingual education.

LAU V. NICHOLS

The failure of the San Francisco school system to overcome the language barrier of some of its students had been challenged in a 1969 class action involving eighteen hundred Chinese-American children who were compelled to attend schools where subjects were taught only in English—a language they could not understand. The plaintiffs claimed that the school authorities had denied these students an equal educational opportunity in contravention of the equal protection clause. Originally, it was understood that the plaintiffs requested bilingual instruction for the limited English-speaking ability (LESA) students, but that request was de-emphasized and eventually dropped following the *Rodríguez* decision, in which the Supreme Court had ruled that education was not a constitutional right. While expressing well-founded sympathy for the plight of the students represented in the suit, the U.S. District Court for the Northern District of California concluded in 1973 that their rights to equal educational opportunity had been satisfied, in that they were receiving "the same education made available on the *same terms* and conditions to the other tens of thousands of students in the San Francisco Unified School District ..."[253] The case was appealed.

In appealing the case, the plaintiffs argued that the District Court had misconstrued the meaning of the mandate in the 1954 *Brown* decision, i.e.: that "education is a right which must be made available to all on *equal terms*." "Equal terms," in *Brown*, their brief stated, meant *without segregation*. For even though there was "surface equality" in segregated schooling, it nonetheless caused "a sense of inferiority in minority children which affected their ability and motivation to learn and tended to retard their educational and mental growth." The appellants reasoned that the basic premises of *Brown* advanced two equally important principles of equal educational opportunity: access and outcome. The latter was paramount

to compensate for inequities. In other words, even though LESA students were given the same course of instruction as all other children, they were still being denied education on equal terms if the others understood instruction and they did not. Furthermore, the distinction that triggered the inequality suffered by these children was one that ineluctably originated from their national origin: language.

The Court of Appeals, however, disagreed and held instead that the failure of the school district to provide bilingual education to LESA students was not unconstitutional discrimination where English had been uniformly used as a language of instruction and where there was no showing that Chinese students' linguistic deficiencies were caused by any past discrimination against them as members of an identifiable racial minority.

A member of the Circuit Court, Judge Shirley Hufstedler, had initially requested that the case be considered *en banc* (in full court, with full judiciary authority). However, a majority of the Court rejected her request; thus, she was not a member of the panel that heard the *Lau* appeal. Dissenting from the denial of *en banc* consideration, Judge Hufstedler filed a minority opinion which stated, in part:

> Access to education offered by the public schools is completely foreclosed to these children who cannot comprehend any of it. They are functionally deaf and mute. The majority opinion says that state action is absent because the state did not directly or indirectly cause the children's "language deficiency", and that discrimination is not invidious because the state offers the same instruction to all children. Both premises are wrong.
>
> The state does not cause children to start school speaking only Chinese. Neither does a state cause children to have black skin rather than white nor cause a person charged with a crime to be indigent rather than rich. State action depends upon state responses to differences otherwise created.
>
> These Chinese children are not separated from their English-speaking classmates by state-erected walls of brick and mortar,[254] but the language barrier, which the state helps to maintain, insulates the children from their classmates as effectively as any physical bulwarks. Indeed, these children are more isolated from equal educational opportunity than were those physically segregated Blacks in *Brown;* these children cannot communicate at all with their classmates or their teachers.
>
> The state's response to the non-English-speaking Chinese children is not passive. The state compels the children to attend school, mandates English as the basic language of instruction, and imposes mastery of English as a prerequisite to graduation from public high school.[255]
>
> The majority opinion concedes that the children who speak no English receive no education and those who are given some help in English cannot receive the same education as their English speaking classmates. In short, discrimination is admitted. Discriminatory treatment is not constitutionally impermissible, they say, because all children are offered the same educational fare, *i.e.*,

> equal treatment of unequals satisfies the demands of equal protection. The Equal Protection Clause is not so feeble. Invidious discrimination is not washed away because the able bodied and the paraplegic are given the same state command to walk.

In essence, Judge Hufstedler was supporting the plaintiffs' contention that, while it was commendable that a State was interested in the education of its population enough to compel children to attend school, when not reinforced by a suitable instructional program, compulsory schooling was tantamount to confinement.

The *Lau* case was appealed again, this time to the nation's highest court. The High Court essentially agreed with Circuit Judge Hufstedler and reversed the Appeals Court's decision. In its January 1974 ruling, the Supreme Court did not deal with the constitutional issue of equal protection but it found the school district in violation of Section 601 of the Civil Rights Act of 1964 (Title VI) and the related guidelines issued by the Office for Civil Rights in its May 25, 1970 memorandum to school districts.

"There is no equality of treatment," spoke Justice William O. Douglas, "merely by providing students with the same facilities, textbooks, teachers and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education." He added, "Basic skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful."[256]

Having ruled that districts had a responsibility to do something to help LESA students overcome their language barrier, the Court suggested some ways in which districts could help the children, but stopped short of spelling out what would constitute appropriate relief. The Justices had not been asked to prescribe remedies, so they did not. Their open-ended pronouncement left it up to the educators to determine the best way to serve LESA students. Although not mandating bilingual instruction by name, however, the Court issued educational specifications that were best fulfilled by the bilingual approach.

Without a doubt, the *Lau* decision would have a far-reaching impact for all language minority students and their schools. Linguistic minorities had found a way to end discrimination against their children. *Lau* was to be for national origin minorities what *Brown* had been for Black minorities.

In a nation noted for its respect for law and order, American minorities were turning to the courts in their attempt to leave a more hopeful legacy for their children than they themselves had inherited from their forebearers. Language minorities had already gone the legislative route in the late sixties and drawn somewhat of a concession in the National Bilingual Education Act. But Title

VII was a voluntary, grants program, which did not help children in districts that simply did not wish to bother with bilingual education. And legislative victories were extremely difficult for national origin minorities, who did not have the numbers to persuade politicans to represent their interests. So now they were turning to the judicial sector—anchoring their pleas on the nation's laws—and obtaining protection for their Civil Rights.

SERNA V. PORTALES

A case similar in argument to *Lau* had been filed by the Mexican American Legal Defense and Education Fund (MALDEF) in New Mexico charging that Chicano children had been discriminated against by way of inadequate teaching. In that case, *Serna* v. *Portales*, a lower court found an equal protection violation in the school district's failure to adopt an education program which would guarantee equal educational opportunity to Spanish-speaking children. A plan submitted by the school district as a remedy was rejected by the court, which instead imposed a plan of its own—a bilingual-bicultural plan—based on expert testimony presented at the court hearing.

The Portales Municipal School District appealed, but before the appeal was heard, the Supreme Court decided *Lau*. The Tenth Circuit Court of Appeals, noting that *Lau* and *Serna* were almost identical, affirmed the trial court's ruling under Title VI but, as the Supreme Court, declined to decide the constitutional claim. The Appeals Court found instead a statutory violation of the students' Title VI rights similar to *Lau* (except that the decision included a specific remedy). The Court stated:

> There was adequate evidence that appellants' proposed program was only a token plan that would not benefit appellees. Under these circumstances the trial court has a duty to fashion a program which would provide adequate relief for Spanish-surnamed children . . . Under Title VI of the Civil Rights Act of 1964 appellees have a right to bilingual education.[257]

In making the ruling, the court drew on decisions issued in desegregation cases, and rejected the contention of the appellants that the District Court's decision and relief represented improper judicial interference in the internal affairs of the school district. The *Serna* Court added this dictum: "Under certain circumstances, it is not an unwarranted intrusion for the Federal district court, using its equitable powers, to choose among educational programs."[258]

ASPIRA CONSENT DECREE

Another case paralleling *Lau* was resolved in 1974 by way of a consent decree. Puerto Rican students, their parents, and Aspira had brought action against the Board of Education of New York City individually and on behalf of a class comprising more than 150,000

Spanish-speaking students in New York City public schools.[259]

The suit alleged that the school system had failed either to teach Spanish-speaking children in a language that they understood or to provide them with the English language skills needed to progress effectively in school. Plaintiffs charged they were faced with unequal treatment based on language and, thus, were denied equal educational opportunity as compared with English-speaking students. This was the first major case involving Puerto Rican children's rights.

In August 1974, a consent agreement was reached in which the defendants acknowledged the rights of the plaintiff children under the 1964 Civil Rights Act, citing *Lau* v. *Nichols*, and agreed to implement a bilingual-bicultural program of education for "all New York City public school children whose English language deficiency prevents them from effectively participating in the learning process and who can more effectively participate in Spanish." Pursuant to the consent decree the defendant school district agreed to provide a program involving "intensive training in English language skills, instruction in substantive courses in Spanish, and reinforcement of Spanish language skills." Moreover, the decree provided for a testing program to identify Hispanic children with English language deficiencies.[260] It is important to note that the consent decree did not apply to Hispanic students relatively proficient in English; thus, the case had more practical than legal value.

THE EDUCATION AMENDMENTS OF 1974

That summer Congress passed—and President Ford signed—the Education Amendments Act of 1974, which modified earlier legislation, retained the Federal role in bilingual-bicultural education, and resolved a number of philosophical issues.[261]

Title I: Compensatory, Bilingual, and Ethnic Heritage

A. *Compensatory Education.* Title I not only would continue special programs for educationally deprived children; but would extend compensatory education to children of migrant agricultural workers and fishermen, to the handicapped, to kindergarten children, to adults, and to deprived children in private schools. It was widely recognized that a disproportionate number of children growing up in non-English-speaking homes could be classified in one or more of these categories. Title I funds would continue to make a major contribution to the education of the bilingual child.

B. *Bilingual Education Act.* The Bilingual Education Act of 1974, which superseded the 1968 Title VII ESEA, was more explicit in intent and design.

1. For the first time, the Federal government provided a definition of what constituted a bilingual education program.

> It is instruction given in, and study of, English and (to the extent necessary to allow a child to progress effectively through the

> education system) the native language of the children of limited English-speaking ability; and such instruction is given with appreciation for the cultural heritage of such children, and (with respect to elementary school instruction) such instruction shall (to the extent necessary) be in all courses or subjects of study which will allow a child to progress effectively through the educational system.

2. Federally-funded programs were to include both native language instruction and cultural enrichment. ESL was unacceptable standing alone.

3. The transitional goal of the bilingual program would be retained. However, the possibility of maintenance programs (where the native language and culture were maintained throughout the program) was not excluded. (In a memorandum issued after the 1974 Education Amendments Act was passed by Congress but before it had been signed by the President, HEW had attempted to clarify the goals of Title VII ESEA: "The fundamental goal of a federally-supported bilingual education program is to enable children whose dominant language is other than English to develop competitive proficiency in English so that they can function successfully in the educational and occupational institutions of the larger society.")

4. Children no longer needed to be low income, a criterion that had previously prevented Title VII from meeting the needs of large numbers of language minority children.

5. The law went on to stipulate that in such courses as art, music, and physical education, children of limited English-speaking ability should be in regular classes in the school—an effort to guard against the prolonged isolation of national origin minority group students.

6. Grants were made available--upon submission of annual state plans—to assist state departments of education to provide technical assistance and coordinate bilingual educational activities.

7. The program would continue to be demonstration-oriented but the Federal government would fund major new efforts in the area of capacity-building, teachers, curricula, and research. The new "capacity building" thrust was aimed at helping to defray the initial cost of expanding school districts' capacity to provide bilingual education services. The idea was to enable school districts to develop the expertise for operating bilingual education programs without Federal assistance. More specifically, the capacity building concept (which survived for only one year) was concerned with teacher training and materials development. The lack of certified teachers and adequate materials had been near the top of the list of impediments to bilingual instruction. They were certainly cited more openly and frequently than some of the other major problems: lack of funds, segregation, and negative attitudes. The scarcity of teachers who spoke the students' native language was known from the beginning of bilingual programs in the late 1960s. The shortage had been so

critical that, initially, certification was of little or no concern (a factor that may account for some of the growing pains of the bilingual movement). Prior to the twentieth century renaissance of bilingual education there had been no market for bilingual materials; therefore, no materials were available in the initial stages of the programs. Teachers improvised as best they could. Some well-intended, but clumsy translations of English texts were used in the beginning (possibly adding to the growing pains).

8. It established a network of regional centers to provide expert consultants and trainers as well as to produce and distribute materials to local educational agencies (LEAs), and a national clearinghouse to collect and disseminate information.

9. The administration doubled its budget request for fiscal 1975 Title VII ESEA.

C. *Ethnic Heritage Study Centers.* Title I ended with a reference to Ethnic Heritage Studies. The legislation authorized continued support for such centers to July 1, 1978.

Title II: Equal Educational Opportunity

The only reference to bilingualism found in Title II was Section 204 (F) where the law stated emphatically that: "the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs" would be deemed an unlawful practice.[262] In codifying the *Lau* ruling, the Equal Eduational Opportunity Act of 1974 significantly extended *Lau* to every person and to all public school districts, not just those receiving Federal financial assistance. School districts could no longer circumvent the proscription of *Lau* by spurning Federal or State funds. (In fact, the failure of a school district to accept State funds was noted by the court in *Serna* v. *Portales*, which resulted in court-mandated bilingual programs.)

The bona fide exceptions to pupil desegregation permitted by ESAA were extended to hiring practices as well by the Equal Educational Opportunity Act, which recognized the "role model" value of Hispanic faculty in predominantly Hispanic schools and the need of Hispanic students to be counseled by sympathetic members of their own background. While containing a general ban against discrimination in teacher hiring and assignment, it excepted from this ban staffing to fulfill the mandate to overcome the language barrier.

Title III: Federal Impact Aid Programs

Title III made major changes benefiting the bilingual child in Public Laws 81-815 and 81-874. One section excluded Impacted Aid funds spent by LEAs for the benefit of bilingual children when calculating a State's equalization formula. Another section included children who resided on Indian lands when computing eligibility. The law further insured "that Indian children will participate on an equal basis in the school program of the local education agency."

Title IV: Consolidation Programs

Three references were made to bilingual education in Title IV. One section authorized the transfer of specified monies from the U.S. Office of Education to the Department of the Interior for certain programs for Indian children. Another section attempted to insure that bilingual children be included in State plans requesting certain funds. The third reference sought the involvement of LESA children in gifted and talented projects.

Title VI: Bilingualism in Non-ESEA Legislation

Title VI amended and extended four related educational programs which affected individuals with limited English-speaking ability.

1. One section provided special assistance for bilingual adult education programs, to be coordinated with those funded under Title VII of the Vocational Education Act. The instruction was to be given in both English and the native language of the adult. Fifteen percent of the States' adult education allotment was to be set aside for special adult education projects including the development of "methods for educating persons of limited English ability."

2. The Act amended and extended the Education of the Handicapped Act through 1977. It authorized transfers of monies to extend the programs to Indian children and required the "testing and evaluation materials and procedures utilized for the purposes of classification and placement of handicapped children to be selected and administered so as not to be racially or culturally discriminatory."

3. The Indian Education Act of 1972 was extended through July 1, 1978, and was amended to provide special educational training programs for teachers of Indian children. The Section also authorized two hundred graduate fellowships for Indian students working toward degrees in engineering, medicine, law, business, forestry, and related fields.

4. Title VI also extended the Emergency School Aid Act through June 30, 1976. This piece of legislation had provided extensive support for bilingual education.

Title VII: National Reading Improvement Program

Title VII provided expanded support for a national reading program, and specified that special priority was to be given "schools having large numbers or high percentages of children with reading deficiencies." One of the criteria set forth in the application process stipulated that provision must be made for "the use of bilingual education methods and techniques to the extent consistent with the number of elementary school-age children in the area served by a reading program who are of limited English-speaking ability."

Title VIII: Postsecondary Education Programs

Title VIII dealt with amendments to the Higher Education Act of 1965, the Vocational Education Act of 1963, and the Library

Services and Construction Act. There were significant new bilingual implications in each of the amended laws.

A. *Higher Education:* There were three major changes benefiting the bilingual college student.

1. One section allowed a new institution to become eligible for Federal assistance during its initial operating year if the Commissioner determined that the institution "will substantially increase higher education for Spanish-speaking people."

2. A language barrier was frequently the cause of poor academic performance in institutions of higher education. Another section sought to remedy this problem by making it possible for colleges and universities to receive grants or contracts for the purpose of adding to their curriculum "a program of English language instruction for students of limited English-speaking ability." Such students could also receive "guidance and counseling in order to enable them to pursue a postsecondary education."

3. The Higher Education Act was further amended to provide assistance for training in the legal profession. The amendment made it clear that individuals receiving the assistance were to come primarily from disadvantaged backgrounds, including persons with language barriers.

B. *Vocational Education:* The Vocational Education Act of 1963 was amended by specifically authorizing bilingual vocational training for persons of limited English-speaking ability; and by adding "Bilingual Vocational Training," intended to provide language instruction for skilled and semiskilled workers already in the labor market and "who desire or need training or retraining to achieve year-round employment, adjust to changing manpower needs, expand their range of skills, or advance in employment." Training allowances for participants in bilingual vocational programs were subject to the same conditions or limitations as those set forth in the Comprehensive Employment and Training Act of 1973.

C. *Library Services:* Title VIII also amended the Library Services Construction Act to give priority "to programs and projects which serve areas with high concentrations of persons of limited English-speaking ability."

One final and significant amendment affecting bilingual education was the replacement of the existing Advisory Committee on the Education of Bilingual Children with a National Advisory Council on Bilingual Education.

In 1974-75, Title VII ESEA was funding five material centers and 383 classroom demonstration projects in 42 languages, which included Spanish, German, French, Italian, Chinese, Japanese, Tagalog (Filipino), and 23 American Indian and Eskimo languages. The funding had increased to $68 million and the number of students served shot up to 339,600.

11 *Aftermath of Lau*

MANY OBSERVERS BELIEVE that 1974 marked the pinnacle of the bilingual movement in the United States. The events of that year not only set new standards for the delivery of educational services to language minorities in the nation's schools, but they were to have a far-reaching impact upon the future of bilingual education.

In accordance with the *Aspira* consent decree, for example, the Office of Educational Evaluation of the New York City Board of Education developed the Language Assessment Battery (LAB) in English and Spanish, kindergarten through twelfth grade. Between 300,000 and 350,000 students were tested with the LAB in reading, writing, listening comprehension, and speaking. Those scoring above the 20th percentile were presumed competent in English and not in need of bilingual instruction. Those scoring below the 20th percentile were to receive bilingual instruction—provided their Spanish proficiency exceeded their English proficiency. Between 85,000 and 100,000 children entered bilingual education programs under the consent decree provisions. New York City later revised the LAB and retested the students to assess their progress under the bilingual education program established by the decree.

THE LAU REMEDIES

By far, however, the most dramatic event of 1974 was the *Lau* ruling. Since the Court had declined to get involved in prescribing a remedy for the conditions found unlawful in *Lau*, the HEW Office of Education convened a panel of bilingual experts to develop a set of guidelines that could be used both by school districts in serving LESA students and by the Office for Civil Rights (OCR) in monitoring compliance with Title VI as interpreted by the *Lau* decision. The "Task Force Findings Specifying Remedies Available for Eliminating Past Educational Practices Ruled Unlawful Under *Lau* v. *Nichols*" were issued in 1975 under Dr. Terrel Bell, commissioner of education in the Ford administration, to guide districts in designing programs to overcome English-language deficiencies.

Commonly referred to as the "Lau Remedies," the suggested procedures outlined, among other things, educational approaches found to be appropriate affirmative steps toward opening the instructional program to LESA students. School districts were required to develop quickly, and submit to OCR, specific voluntary compliance plans if they were found to be noncompliant with Title

VI and if they had twenty or more students of the same language group who had been identified as having a primary or home language other than English. These twenty students did not all have to be LESA. School districts with a lone student with limited English-language skills were obliged to take affirmative steps, although these were not expected to be as extensive and comprehensive as they would be in other districts. OCR stated that, although it did not look on the Lau Remedies as a regulation with the force of law, they were entitled to weight as an agency interpretation and were to be considered comparable to the May 25 memorandum.

The term "Lau" became synonymous with access to instruction for LESA students. Thus, Lau plans quickly became for national origin minority students what desegregation plans meant for Black students: both opened doors leading to equal educational opportunity. The parallel was not without precedence. Almost every Civil Rights victory won by Blacks on grounds of race, color, or socioeconomic conditions was followed by a language-related victory for national origin minorities.

A score after the 1954 *Brown* race desegregation ruling by the U.S. Supreme Court, the nation's High Court decided *Lau*, which was based on the language needs of Chinese children. The enactment of ESEA Title I (compensatory education for disadvantaged children in the inner cities of America—mostly Black) was followed three years later by the passage of ESEA Title VII (bilingual education for children of limited English-speaking ability—mostly Hispanic). And the Voting Rights Act of 1965, enacted to protect the suffrage of Black Americans, was amended a decade later to remove a linguistic barrier that had effectively disenfranchised national origin minority citizens.

BILINGUAL BALLOTS

Recognizing that literacy tests and other devices had been used to prevent Black Americans from registering and voting, the Voting Rights Act had banned the use of such "tests or devices." But a number of Federal court decisions in the early 1970s found that English-only elections for non-English-speaking Puerto Ricans living in the United States Mainland operated as a similar "test or device" to keep citizens from voting. A Federal court in New York ruled that:

> In order that the phrase "the right to vote" be more than an empty platitude, a voter must be able effectively to register his or her political choice. This involves more than physically being able to pull a lever or marking a ballot. It is simply fundamental that voting instructions and ballots, in addition to any other material which forms part of the official communication to registered voters prior to an election, must be in Spanish as well as English, if the vote of the Spanish-speaking citizens is not to be seriously impaired.[263]

In 1973 the Seventh Circuit Court of Appeals ruled that:

> If a person who cannot read English is entitled to oral assistance, if a Negro [sic] is entitled to correction of erroneous instructions, so a Spanish-speaking Puerto Rican is entitled to assistance in the language he can read or understand.[264]

Based on extensive testimony, Congress expanded the Voting Rights Act's definition of "test or device" to include English-only elections in areas with significant populations of language minority individuals. Thus, as it had banned the use of literacy tests, in 1975 Congress banned the use of English-only elections in certain regions.

The Voting Rights Act was expanded because Congress determined that voting discrimination against citizens of language minorities was pervasive and national in scope.[265] Congress found that such citizens had been effectively excluded from participation in the electoral process through various practices and procedures, including holding English-only elections. Jurisdictions covered under the Voting Rights Act as amended had to comply with the special provisions requiring assistance to citizens of language minorities.[266] Specifically, these jurisdictions were to provide:

> ... any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots ... in the language of the applicable minority group as well as in the English language.[267]

The provisions further stated that where the language of the applicable minority group was oral or, as in the case of Native Americans and Alaskan Natives, if the predominant language was historically unwritten, the jurisdiction was only required to furnish oral instructions, assistance, or other registration and voting information.[268]

More than a hundred counties and cities nationwide were affected by the minority language provisions. The Act required bilingual elections and oral assistance for Spanish-speaking citizens in Texas, California, Colorado, New Mexico, Arizona, Florida, and New York. Assistance was to be offered also in many places to American Indians and in some places to Filipinos, Chinese, Japanese, and Alaskan Natives.

Many opponents of bilingual elections charged that they would be too costly. Even before the 1975 amendment was enacted, the California Secretary of State estimated that trilingual elections (English, Spanish, and Chinese) would cost $20 million statewide. The voter registration in San Francisco projected an expense of $2 million to that city alone. Those figures proved to be grossly exaggerated. In the first election covered by the language provisions, California spent only $278,000 on trilingual ballots; San Francisco's cost was only $40,000 (one and two percent, respectively, of the predictions).[269]

Bilingual elections not only encouraged many language minority citizens to exercise for the first time their right to vote but, as it turned out, they also had the effect of encouraging national

origin minority candidates to seek office to represent their communities. Many political leaders wondered aloud if making it possible for LESA citizens to vote would remove their incentives to learn English—as if the only reason to learn English were to be able to vote. (Ending literacy tests, after all, did not encourage illiteracy.) They saw a potential for polarization on the basis of linguistic and cultural chauvinism, for they believed English was the linchpin that would keep this nation together.

Linguistic and cultural pluralists dismissed this concern by referring their critics to the Pledge of Allegiance to the Flag of the United States of America. It was *liberty and justice* (not English) *for all* that would keep this nation indivisible.[270] Casting a ballot was one of the most unifying forces in the United States. Therefore, facilitating the basic right to vote for national origin minority citizens would hasten the day when they and their children would enter the nation's mainstream. Viewed from this perspective, bilingual ballots were not promoting separation; in fact, they were promoting patriotism.

Attacking the language issue, in 1975 the American Legion adopted a resolution advocating that English be the primary language taught in the nation's schools.[271] Less sophisticated, but equally telling, assaults on bilingual instruction were coming from other organizations as well as the general public.

INACCURATE COMPARISONS

One theme heard frequently held that the United States had not forced—indeed, not even asked—immigrants to come to its shores (or its airports, as the case may have been). Having come, they should have accepted things as they found them—and this included English. Many Americans pointed out with pride that their European ancestors had "made it" without bilingual education and these new immigrants could do the same if they only applied themselves. These arguments betrayed a rather naïve perspective concerning the American immigration experience, they ignored the fact that bilingual education had existed throughout the history of the United States, and they failed to consider the undeniable reality that times were different.

It was inaccurate to portray the Europeans—who sought America as an escape from deprivation or persecution—as entirely voluntary immigrants. It was equally inaccurate to regard the U.S. government as a passive host to uninvited visitors. On one hand, America's critical need of immigrant labor for farms, factories, and mines was a strong pull factor. On the other hand, in its de facto role as broker for capital and industry, the government encouraged the immigration.[272]

The U.S. government did not play a significant role in creating the push factors that prompted emigration from Europe; its contribution to global economics was small then, and its role as a military power smaller yet. The presence of Hispanics in the United

States, however, was a direct result of U.S. government actions. Chicanos and Puerto Ricans were part of the nation's population because of the United States' armed takeover of Mexican (1848) and Spanish (1898) territories.

In the case of immigrants from Latin America, the United States played a more significant role in causing the push factors that brought immigrants and exiles from Latin America and the Caribbean than it did in the case of early European immigrants. This is not to imply that socioeconomic conditions in Latin America were entirely caused by *el imperialismo yanqui*. And, to be sure, the decision to emigrate was a voluntary one for which the individual bore ultimate responsibility. The point here is that the role of the U.S. government in sustaining a structure of privilege and a pattern of economic development in the mid-twentieth century was sadly familiar. Thus Chicanos in the Southwest, Puerto Ricans in the Northeast, and Cubans in the Southeast could more readily attribute their presence in the United States to the Federal government than could the Polish, Irish, or Italian immigrants of the past.

These arguments were not intended to promote bilingual programs as reparation for past or present U.S. actions. Rather, they pleaded for a more balanced view of history. In other words, the customary comparison between Europeans and Hispanics failed because it attempted to make a historical point while disregarding history.[273]

It was quite probable that many Europeans had made it without bilingual education—indeed without any significant formal education of any kind. At the turn of the century, 94 percent of students in the United States were not graduating from high school, although they could still market their able bodies to unskilled labor, and train on the job.[274] By the mid-1970s, however, some of the last remaining nonskilled jobs, where verbalization was not essential, were fast disappearing. In the postindustrial area, automation had eliminated jobs once performed by human hands in elevators, bowling alleys, and assembly lines. Machines were washing dishes and loading trucks; even farm work was becoming mechanized. Small "mom and pop" businesses had been replaced with corporate-owned chain stores and modern shopping malls. The professions (education, human services, recreation) now necessitated credentials that were not required in earlier times. Most importantly, in the fast world of high technology, communication had become a critical commodity. The abilities to seek, receive, understand, utilize, process, generate, store, retrieve, screen, deliver, and convey information quickly and accurately were now important skills necessary not only for successful employment but for practically all other aspects of everyday life.

In a competitive nation with high standards of living, uneducated and undereducated people ended up as wards of the state either on the unemployment or welfare rolls, prisons, psychiatric hospitals, or rehabilitation centers. It would have been less ex-

pensive and more humane to spend that money in educating these young citizens early in their lives that they may fulfill their own aspirations and concomitantly become productive contributors to society.

MORE STATES MANDATE BILINGUAL INSTRUCTION

Most activists in the communities composed of national origin minorities were convinced that bilingual education was the most promising strategy to teach LESA children, to prevent or reduce their alarming dropout rates, to restore their self-confidence, and to enable them to develop the momentum needed to mesh into the academic mainstream. This is what Title VII of ESEA was attempting to provide. But Title VII was still a demonstration program with competitive funding based on voluntary applications. Thus, bilingual instruction was still not reaching all the children who needed it to survive in school. Encouraged first by the Massachusetts example and then by the Lau policy, language minority communities throughout the country were petitioning their State governments to enact legislation mandating local school districts to provide bilingual services to LESA students. Several states did, but not without a struggle.

In January 1975, Governor Brendan Byrne of New Jersey signed into law a bilingual education mandate that had been approved by both houses of the State legislature in 1974. The New Jersey bill was essentially a carbon copy of the Massachusetts law. In fact, it had been drafted by the same attorney from the Puerto Rican Legal Defense and Education Fund who had worked on the Massachusetts draft (Stuart Abelson). He was assisted by personnel from the New Jersey State Department of Education, who saw to it that the needs of New Jersey were properly addressed in the language of the proposed bill.

As soon as the initial draft was completed, copies were made available to every conceivable special interest group in the State, including other governmental departments, colleges, teachers unions, school boards, political organizations, and community groups of various national origins.

The key to the success of the New Jersey bill was a coalition formed consisting of all these special interest groups, early in the campaign. Members of the coalition fronted all the lobbying efforts using their respective advocacy strengths. Not only did the coalition provide a broader base for the bill but, most importantly, it forestalled the appearance that the effort was a Puerto Rican agenda. This, all agreed, would have aborted the proposed legislation.

Essentially, the law mandated bilingual instruction in any LEA with twenty or more LESA students in the same language category, and reimbursed the LEA for the additional cost of bilingual services. Financing of the mandate was tied to the New Jersey Public School Education Act of 1975, which had been enacted after the State's constitutional guarantee of a "thorough and efficient" (T&E) system

of education had been reaffirmed and ordered implemented by the State Supreme Court in *Robinson* v. *Cahill* in 1973.

Three other states—Alaska, Washington, and Wisconsin—also legislated bilingual mandates in 1975. The Colorado State Legislature passed a bill during the 1974-75 school year mandating bilingual-bicultural programs for grades K-3 in schools that had ten percent or fifty children who were "linguistically different." That definition was changed during the 1976-77 school year to "language and culture other than English ..."[275] Other states were changing their laws to *allow* bilingual instruction. Many states were also appropriating funds—ranging from $20 to $430 per student—specifically to support bilingual programs. However, only four states and Puerto Rico reported having allocated more funds for bilingual education than they received from the Federal government during 1975-76.

In addition to State and local funds, eighteen different Federal programs could be tapped for financial support of bilingual education. Ninety percent of that support was provided by ESEA Titles I and VII (37 and 53 percent, respectively). The cost of Title VII programs averaged $375 more per pupil than that of typical non-bilingual programs.

Title VII funding had increased that year to $85 million, although the number of basic programs had decreased to 319 and the number of students served had been cut in half to 162,000. The reductions were only temporary, however. The following year, funding was increased to $98 million; the number of programs went up to 400 and nearly 200,000 students were served in 47 languages.

Eight of every ten students in bilingual programs spoke Spanish as their home language. In fact, most states legislating bilingual instruction were doing so under pressure from their Hispanic constituencies. In 1976, for example, California enacted a truly comprehensive bilingual education law. Bilingual mandates were also enacted in Indiana and Michigan that same year.

Some of these State laws contributed to the resentment against bilingual education, for many citizens felt that the educational establishment was making excessive concessions to recent arrivals. In fact, many felt that instead of newcomers sacrificing to adapt to their new environment, they were attempting to change the environment to suit their needs—a prerogative most Americans felt had been reserved exclusively for the nation's Founding Fathers.

Predictably, a litany of challenges against bilingual laws was rattled off by opponents of bilingual instruction whenever the subject came up. Some had more validity than others. One frequent argument was against the wording of many state laws. One example, "when, at the beginning of any school year, there are within the *schools of the district twenty or more pupils* of limited English-speaking ability ..." (not twenty per school or per grade, but per district) meant that the mandate could conceivably apply to a district having twenty such children spread over thirteen different

grade levels (K-12) with no more than one or two pupils per grade. Compliance could be further complicated if these twenty children were attending different schools throughout the district—again with no more than one or two pupils per building. If this were the case, school administrators argued, the district would be hard pressed to bus these children, group them in ungraded classes so as to achieve a "critical mass," and then provide four or more teachers for these twenty students. Fueling some of these arguments was the unexpected influx of Indochinese refugees in the mid-seventies, causing local education officials to ask rhetorically if they would have to offer bilingual instruction in a dozen or more different languages.

INDOCHINESE REFUGEES

With the fall of Saigon in 1975, the United States was becoming the refuge of a seemingly endless influx of Indochinese expatriates. They differed substantially from earlier refugees in that they were unaccustomed to Western civilization—particularly the urban variety. Some had been traumatized by the horrors of guerrilla warfare, bombings, the loss of loved ones, near starvation, the Thailand and Malaysia camps, recent escape experiences, overcrowded ships, and blatant violations of human rights.

They differed also among themselves. Although many Americans viewed the refugees as being a single ethnic group, in reality the Indochinese were as diverse as the various peoples who had populated the United States during its two centuries. Those arriving in the United States comprised, basically, three groups of people: the Vietnamese, the Laotian, and the Cambodian. The Vietnamese by far were the largest single group of refugees—constituting 85 percent of the entrants—but they were also diverse in terms of their language, education, and socioeconomic orientation. While most could not speak English and some were illiterate in their own language, there were a number of educated and skilled people among them who had finally escaped from the political repression that had kept them in Indochina. The second group to arrive in the 1975 wave, the Laotians, constituted eleven percent of the Indochinese refugee group. They spoke either "Lao" or "Hmong" primarily. The third ethnic group, the Cambodians, spoke a language called "Khmer" and their general background experiences seemed to parallel those of the Laotians who spoke "Hmong." Cambodians accounted for only four percent of the refugees.

English language teachers had to retrain in order to cope with the new set of language obstacles brought about by the speakers of Vietnamese, Lao, Hmong, and Khmer. The school system that attempted to augment services to the Indochinese by offering classes in a language understandable to them while at the same time offering ESL classes found the job market to be generally void of people who could qualify for teaching certification or who could function as successful teacher aides or assistants. There were no bilingual

or even native language materials. Educational records were for the most part nonexistent, a fact that adversely affected the educational placement and counseling of the Indochinese students.[276]

There were some teachers who had joined the exodus, but licensing them became an insuperable barrier because of their lack of proficiency in English—a certification requirement in most states. Although some bilingual education administrators suggested certifying these teachers to provide instruction only in the language they knew in a team teaching situation this recommendation was rejected by most teacher credentialing boards.

The school systems feeling the greatest impact were those of port-of-entry districts. In other areas, the "recently arrived" Indochinese were people who had originally come during the first wave in 1975 and were now participating in a secondary migration from one area of the United States to another, thus their problems were not as critical. Secondary migrations were fueled by the belief that one area was more appealing than another because of its climate, educational and job opportunities, and the proximity of relatives. Most refugees seemed to favor the West and Southwest regions of the country. The greatest concentration was in California which had 33 percent of all Indochinese refugee children.

Unlike the way the government had handled the Cuban exiles in the early sixties, no impact aid was available to assist school districts receiving Indochinese students. Although a Ford administration proposal for $507 million in aid for Vietnamese and Cambodian refugees in 1975 had included $30 million for education, that money was not intended for direct payments to LEAs teaching refugee children. Instead, it was earmarked for language training (some of it in the refugee camps), vocational and adult basic education, and professional retraining. In contrast, by 1975, HEW's Office of Social Rehabilitation Services had paid $144 million to Dade County, FL for part of the cost of educating Cuban-born children. In addition, Congress had amended the Impact Aid Law to add Cuban refugee children as a category of Federally-impacted students.

School systems which were providing for the education of the children of those aliens who were coming here as political refugees with the full knowledge and sanction of the U.S. government could expect some assistance or at least some empathy from the Federal authorities. This was not the case with districts saddled with the responsibility of having to provide free schooling for children whose parents were entering the country illegally for economic and other "nonpolitical" reasons. This fact, exacerbated by the thousand-mile border between Texas and Mexico, prompted the Texas Legislature in 1975 to amend its school statutes limiting the benefits of the State's Available School Fund to citizens or legal residents. The amendment, sponsored by State legislator Rubén Torres, representing tax-poor Brownsville, was intended to draw Federal aid to help educate these children—and to discourage further illegal entry into the United States. (It accomplished neither of these objectives.)

Under the amended law, local school districts reserved the right to admit undocumented residents with or without tuition but could not count them for the purposes of determining their State aid allotment. Naturally, most school districts would either charge tuition—as much as $1,000 per year—or exclude these children altogether. The constitutionality of this policy was upheld by the Texas Supreme Court.

12 Variations on the Bilingual Concept

INTERIM CENSUS ESTIMATES confirmed that the Hispanic population was growing, that it was younger (collectively) than the average American population, and that it was still undereducated. The Census estimated 11.2 million Hispanics in 1975. Approximately five million children were living in homes where a language other than English was spoken. Of them, more than two million needed special instruction in English.

COGNITIVE APPROACH TO LANGUAGE LEARNING

The increased prominence of ESL as an integral component of bilingual education, better research and development in the field of language instruction, improved teacher training in the use of ESL, and more stringent certification criteria for ESL teachers had all combined to produce highly sophisticated methodology for teaching English as a second language. Many in the new breed of ESL teachers were rejecting the popular audio-lingual approach in favor of a newly-developed cognitive approach.

While the audio-lingual approach was the product of structural linguistics and behavioristic psychology which placed stress on the external, mechanical aspect of language learning, the cognitive approach was the outcome of the rationalist movement in linguistics and psychology which held that language learning was an internal mental operation controlled by the individual.

In his review of Skinner's book *Verbal Behavior*, Chomsky pointed out that the incredible creativity which is inherent in human language makes it quite impossible to account for its acquisition by a mechanism of selective reinforcement of responses.[277] The principal tenets of the cognitive approach consisted of:

1. The goal of second language teaching is to develop in the students the same language abilities possessed by native speakers.
2. The students' cognitive structures serve as the necessary prerequisites to their performance.
3. Since language is basically a creative activity, textual materials and the teacher should introduce situations that promote the creative use of language.
4. Since language is not an inventory of sentences to be learned, but is a system of rules and exceptions which generate sentences, grammar should be taught deductively.

5. Learning should be meaningful to the students. They should know what they are doing and why.

The cognitive method of second language teaching was based upon the following principles:

1. Build on what the students already know.
2. Help the students relate new material to themselves, their life experiences, and their previous knowledge.
3. Avoid rote learning (except perhaps in the case of vocabulary).
4. Use graphic and schematic procedures to clarify relationships.
5. Utilize both written and spoken language in order to appeal to as many senses as possible.
6. Attempt to select the most appropriate teaching-learning situation for the students involved.
7. Employ the first language, visuals, or demonstrations as a base from which to build conceptualization of meaning and form in the second language.
8. Use inductive, deductive, or discovery-learning procedures as the situation warrants.
9. Distinguish between the various backgrounds and potentials of each student.
10. Stress the functional use of grammatical patterns, not abstract rules per se.
11. Attend to student attitudes as well as to comprehension of content.
12. Give students a chance to question and practice.[278]

Teaching techniques were specified in terms of introduction to new materials, exercises, and application activities. Cognitive presentation of new sounds was similar to the audio-lingual practice. New vocabulary was either presented with visual aids, by means of native language or second language definitions, or through context. Visuals, contrastive comparisons, explanations, or examples were often employed to teach new structures. Exercises designed to give the students a chance to demonstrate comprehension of usage were usually written at home as part of the homework assignment. Application activities served to give the students the chance to communicate using what they had learned. These sometimes included reading or listening passages. The students were also encouraged to express their own thoughts in the second language orally and in writing.[279]

IMMERSION AND SUBMERSION PROGRAMS

French immersion programs, begun in the mid-sixties, became very popular during the subsequent decade among majority-group Anglophone-Canadians concerned with acquiring Canada's other official language. In immersion programs Anglophone children were

taught the regular school curriculum in French by native French-speaking teachers.

In immersion, school subjects were taught through the second language. The focus was on subject matter, not on teaching the language. All students were speakers of the majority language learning the target language. The curriculum was structured so that no prior knowledge of the new language was assumed. Although the immersion teacher knew the students' dominant language, that language was seldom spoken by the teacher and never used for the purpose of instruction. The students could address the teacher in their language in the beginning, but the teacher usually replied only in the language being taught.

According to Fred Genesee of Montreal,[280] there were three phases to the Canadian immersion program: an *immersion phase* (from K to 2 or 3) when French was used as the sole medium of instruction. This was followed by a *bilingual phase* (from grade 3 to the end of elementary school) when both English and French were used, in varying proportions, as media of instruction. During the third, or *maintenance phase*, select courses were taught in French.

There was considerable research on the effectiveness of French immersion programs, with the general findings being: (1) the participating children acquired skills in the second language that were far superior to those of children in the regular French-as-a-second-language program, although they did not acquire native-like skills; (2) the children developed normally in all aspects of their native language; (3) they achieved to the same level in academic areas as their peers in the English program; and (4) general cognitive development proceeded normally.[281]

The immersion method was regarded as a more natural approach to second language teaching since it was thought to reflect more faithfully the conditions under which children learn their first language. This was achieved by emphasizing the communication value of language rather than its linguistic value[282] and by shifting the emphasis from the language teacher to the language learner. At the same time, the use of native speakers of the second language and the use of the language as a medium of communication in regular daily school activities provided the students with a living model of the language and the social and cultural rules which governed its use. These were aspects of a second language which were difficult to teach explicitly. It is worth noting in this respect that in immersion programs the culture of the second language group was transmitted in an implicit manner; no formal cultural training was provided. Rather, the culture was represented in the person of the teacher, who was usually a native speaker, and in the context of the teaching resources (textbooks, activities, or assignments), which were designed as if the children were themselves native speakers of the language. In this way, the child was introduced to and "bathed" in the target culture in a natural manner.

Following the pattern set by the St. Lambert experiment in

Canada, immersion programs were implemented in several U.S. cities. In the mid-seventies, there was a Spanish immersion program for Anglo-American children in Culver City, CA;[283] a French immersion program for Anglo-Americans in Plattsburgh, NY; and another French program located in Silver Spring, MD. Programs in Milwaukee and San Diego were also based on the Canadian prototype.

The Maryland French program began in the early seventies, was funded with local funds, and used a nongraded approach combining first and second grades and third to sixth grades. All standard academic subjects were taught in French; English was used for nonacademic subjects and noninstructional periods. Although progress was painfully slow during the first month or so, after two years in the program, participants were scoring as well as their nonparticipating peers on the Iowa tests for third grade. The model used French Canadian books, supplemented with materials from Louisiana bilingual programs. Costs were kept to a minimum by using volunteers. Parents were, in fact, expected to evidence commitment to the program.[284]

Interaction with members of the target language and cultural group in an educational setting was carried one step further in a situation labeled "submersion" (but which might have been more appropriately labeled *total immersion*). Examples of this type of education were found in Montreal when members of each official language group, English and French, attended schools in each other's language—English-speaking children attending French schools, and vice versa. The difference between the immersion program and the "submersion" program was that in immersion all of the children in the program were Anglophone except the teacher. In fact, the schools in which immersion programs were offered were predominantly English.

In submersion, learners were "submersed" in classes where the rest of the students were speakers of the language used as the medium of instruction. (This was the case in the United States when a recently-arrived student was placed in a class taught in English, a language that the newcomer did not understand, and he or she was left to sink or swim.)

Anglophone children who were submerged in the second language of Canada attended all-French schools within a predominantly French-based school system. Therefore, most of the other students as well as the teacher in these classes were native French speakers. This total immersion in French provided the Anglophone students more linguistic and cultural models than did the immersion situation. Obviously, the total immersion experience also necessitated intercultural communication.

There was relatively little empirical information on students' progress in the submersion classes. It was known, however, that many of them acquired native-like mastery of the second language—a level of competence seldom achieved by students dur-

ing the elementary grades in the immersion classes. It was also known that the Anglophone students in all-French schools integrated completely and easily into the social network of the school and it was speculated that this positive intercultural school experience would generalize beyond the classroom.

ADDITIVE VS. SUBTRACTIVE BILINGUAL APPROACHES

Whereas immersion or even submersion in schools where a second language predominated could be an effective pedagogical technique for majority group children, this form of bilingual education was not considered effective for LESA minority group children. Since the majority group children's native language and culture had ample currency and support in the larger society, it was difficult to see how the learning of a second language and contact with another cultural group would in any way erode their native language, culture, or value systems. Thus, for Anglophone children in Canada, for example, to acquire a functional competence in French represented the addition of a second, socially relevant language to their linguistic repertoire. Lambert called this type of bilingualism "additive."

In the case of LESA minority group children, on the other hand, their language and culture may not be adequately represented in the community. Therefore, for these children to be taught in all-English schools and to learn English under these circumstances tended to portend the replacement of their native language and even their culture by the language of the school. Their degree of bilingualism at any point in time might have reflected some degree of subtraction of the native language and culture. Lambert called this type of bilingualism "subtractive" and suggested that one of the important educational tasks of the future was to transform the pressures on ethnic minority groups so that they could profit from additive forms of bilingualism and biculturalism.[285]

An additive type of bilingual program was inaugurated at the Nestor School in San Diego, CA in the mid-seventies. This was a two-way bilingual program involving both Spanish and English-speaking students and using a team teaching approach.

The advantages of this project were many: for the Anglo-Americans learning Spanish, they had the benefit of native Spanish-speaking models of the same age, and for the Spanish-American children learning English, they had the corresponding benefit of native English-speaking peer models.

The report on the first year's progress was positive for the most part. In particular, it was found that the first grade Hispanic children in the bilingual program performed better than did comparable Hispanic children in a regular English program on tests administered in Spanish, such as mathematics, environmental sciences, auditory comprehension, and phoneme/grapheme discrimination. At the same time, the bilingual program students scored just as well as the regular program students on the corresponding English tests.

Apparently the bilingual program was serving to develop the participating students' Spanish language skills at no cost to their English language development.[286] It is interesting to note that in year two of the program, 1976-77, virtually all of the students re-enrolled—suggesting parental satisfaction with it.

For each year they spent in the program, the native speakers of Spanish gained a third of a year's growth in addition to whatever rate of growth they would have experienced without the program. In math, the Hispanic students were more than a year ahead of their peers in the comparison district and only one month behind grade level compared to national norms.

Hispanic students who had spent five years or more in the bilingual program at the elementary level tended to perform slightly better in English reading than the school average at the junior high school level despite the fact that at least 37 percent of the students in the comparison group were native English speakers. In mathematics, the grade six Spanish-background children in the Nestor program were over a year ahead of the Spanish speakers in the comparison district and only one month behind grade level. The English-background participants in the Nestor bilingual program performed at a higher level than the comparison groups on a large majority of measures.[287]

TRILINGUAL EDUCATION PROGRAMS

An interesting variant of bilingual education for the minority group was introduced in Canada where a group of English-speaking Jewish-Canadians was simultaneously acquiring competence in two additional languages. One of these languages was French, an official national language, and the other was Hebrew, the language of their culture. In these programs, the children received all instruction during kindergarten, first, and second grades from native French-speaking teachers and from native Hebrew-speaking teachers. English language instruction was not introduced before third grade. The traditional curriculum material (math, science, etc.) was taught in French, while cultural and religious material was taught via Hebrew. This program was interesting because it represented the case of a minority ethnic group which already spoke the majority national language but was endeavoring to acquire the second national language while preserving its own distinct cultural and linguistic heritage.

The goals of the trilingual school were (1) to maintain and develop the students' native language, English; (2) to gain access to the local majority ethnolinguistic community by learning French; (3) to preserve their traditional culture and language by maintaining active use of the Hebrew language; and (4) to provide the students with the best possible academic training. By using each of the three languages—French, Hebrew, and English—as media of communication in the school, these programs were able not only to promote

acquisition of these languages but also to develop legitimate and valuable systems of communications.[288]

In the United States, the Nyack school system developed a trilingual program for Haitian children who had immigrated to this Hudson River suburban town 25 miles north of New York City. The trilingual approach was a natural here since many Haitians already spoke two languages (French and Creole) before coming to the United States and, of course, needed to learn a third language—English—to function in this country.

As a rule, youngsters who came from one of Haiti's few urban areas seemed to be able to use French for academics. A larger portion, coming from rural Haitian areas, were Creole dominant—although they could generally understand French. However, most Haitians could not read Creole because that language had rarely appeared in print; it was primarily a spoken language. Not until the 1970's had there been attempts to develop educational materials in Haitian Creole.

The Nyack trilingual model started out as a grade seven to twelve, highly individualized program. For example, a newly-arrived, non-English-speaking eighth grader who could read French would develop additional reading skills in French while working toward an eventual transition to English reading. In all probability, the student would have used Haitian Creole oral skills in the math program.

The Nyack and Canadian models demonstrated that the optimum conditions for trilingual education are present when the students can already function in two languages when they enter the trilingual program, there are orthographic similiarities among the three languages, or the three languages are all relevant to the needs of the students. Trilingual programs using English, Spanish, and an Indian tongue were also reported in the United States.

A three-way trilingual program proved unsuccessful in New York City, where the circumstances were quite different. The participants were Hispanic, Chinese, and Anglophone pupils. This model was originally envisioned as two separate bilingual programs for Hispanic and Chinese students, respectively. Each group would use its dominant language for initial instruction in math and for reinforcement of English instruction in reading, social studies, and science. Reading readiness and developmental reading were to be conducted in English.

The premises of this approach were that reading skills in Spanish could be easily transferred to English because of the many orthographic similarities. While it would have been more difficult to make the transition from Chinese to English, sixty percent of the Chinese youngsters were attending after-school language classes run by Chinese associations. Thus the teaching of English reading in the public school, while using the dominant language for math and other content areas only, seemed logical. (A separate dominant language reading program was implemented for the Spanish-speaking children after the first year's efforts to teach reading in English failed.)

What turned this program into "trilingual education" was an apparently faulty desegregation plan which attempted to integrate all three groups at all times and in all classes. This misintepretation of the desegregation concept led educators to resort to simultaneous instruction in the three languages. For example, the same passage from a book would be read in English, then in Spanish, then in Chinese. Probably because they did not need to know each other's mother tongue, the children were bored at least one-third of the time and often became disruptive. In addition, program administrators could not deal with the complex scheduling problems.

The experiment was eventually abandoned and the program reverted to its original schema of two distinct bilingual models—one in Spanish and English and the other in Chinese and English. English dominant students were given the options of learning Spanish or Chinese as a foreign language. Most opted to remain monolingual, although class composition remained tri-ethnic.

Another "trilingual" program on the West Coast was, similarly, two bilingual programs for Hispanic and Chinese students, respectively. The program was dubbed "trilingual" because it offered third-language lessons for fifteen minutes twice a week.[289]

Although several schools boasted of *multilingual* programs, the reality was that most of these simply had *bilingual* programs for different language groups. Regardless of how many different languages were spoken by the LESA students of a school district, programs designed to teach these children English while also teaching them content in their native language were bilingual—not multilingual—programs, because each child was involved with only *two* languages: (1) his/her own and (2) English. It was different in the case of cultural exposition designed to sensitize students to each other's cultural heritage in order to promote positive intergroup relations. Multicultural programs were, thus, not only viable, but desirable. An excellent example of a genuine multicultural model existed in Hamtramck, a small city adjacent to Detroit. The community had been predominantly Polish for many decades. In the 1970's there was an influx of Arabic, Albanian, Yugoslavian and Macedonian families. In 1976 a bilingual/multicultural program involving all five cultures was established in the Hamtramck Public Schools.

Another interesting development in what could be accurately called a variation of "bilingual" education was taking place in the field of sign language for the hearing-impaired. Linguistic departments were offering courses in "sign" and some were beginning to accept them as fulfillment of the foreign language requirements for degrees—even for the Ph.D.—in the mid-1970s.[290]

13 Bilingual Education vs. School Desegregation

BILINGUAL EDUCATION WAS emerging as essentially a dual-language program, shedding its initial compensatory image. Language, it was reasoned, was the main barrier to an equal educational opportunity for LESA children. And unlike the unalterable circumstances of race and color, which were the bases for discrimination against Blacks, language could be taught. Even court-ordered remedies for national origin minority students had been grounded on language instruction.

The more they delved into linguistics for the solutions to their children's failure in school, the less bilingual educators seemed to have in common with Black priorities, such as desegregation, for which they did not see a pedagogical basis. Black Civil Rights advocates were not entirely blameless for the widening gap, for they had never really supported bilingual education. Both groups had been busy advancing their respective causes oblivious of each other, a fact that could not totally escape a somewhat elitist tinge—on both sides.

Validity as an educationally-sound approach, however, had not spared the bilingual movement from criticism. This was one of the reasons why many bilingual educators often preferred to operate in relative isolation from the rest of the educational community, especially those from whom support was doubtful or who themselves were targets of negative criticism. Their unique needs, they felt, gave them license to operate independently. And unlike desegregation, bilingual education did not have to involve children from the majority culture.

To be sure, then, not all attacks against bilingual education were racially motivated and not all were coming from White Anglos. The idea of Hispanics and other national origin minorities "riding the Civil Rights bandwagon" to demand differentiated services anatagonized many Blacks who believed bilingual education was a divisive process associated with the foreign born. They felt bilingual instruction was interfering with desegregation plans, that it was being used at times as a ploy to foil desegregation efforts, and that it was re-establishing a dual educational system, which desegregation advocates and technicians were struggling so hard to dismantle. The "bona fide" exemptions from desegregation accorded to bilingual programs and the apparent Hispanic naïveté about segregation combined to alienate Black Civil Rights activists and, by the

late seventies, bilingual education and school desegregation were headed on a collision course.

Not unlike most other parents, Hispanic parents favored neighborhood schools, were against busing, and did not seem to mind their children attending segregated schools. They were apprehensive about not being able to walk their children to school, not being able to stroll by the school once or twice a day to keep an eye on them, and not having a car to go pick them up in case of emergency. Surely, then, if the children were reassigned, the parents would have to move closer to the schools.

Hispanic civic leaders feared the loss of power—political and economic—that they presumed would result from this diffusion of their community. Mathew had cautioned: "While bilingualism, from a political point of view, is meant to foster the Puerto Rican/Hispanic identity and consequently encourages concentrations of Hispanics to stay together and not be integrated, one also has to be wary that it not become so insular and ingrown that it fosters a type of apartheid that will generate animosities with other groups, such as Blacks, in the competition for scarce resources, and further alienate the Hispanic from the larger society."[291] Mathew concluded: "Only to the extent that bilingual programs remain open to the possibilities of involving Blacks and Whites of all nationalities will bilingualism become an important and challenging alternative."[292]

"Unless Anglo children enter the programs," observed Dr. Gary Orfield, "it is not likely that the *bicultural* program will really present an interchange of cultures not only permitting Hispanic children to come to terms with the dominant society but also helping White and Black children understand the cultural heritage of an important and growing third group in American society." "If the question of segregation is not faced," said Dr. William Milán, "the result may be to damage the prospects of Hispanic children in the largely English job market." Dr. Thomas P. Carter, a pioneer in the field of bilingual education, suggested: "Given only two polar choices—ethnic segregation with instruction in Spanish or desegregation without it—I would choose the latter as most beneficial to the child and society."

No one had seemed particularly concerned over the segregative aspect of bilingual education during the infant stages of the bilingual experiment, when it was seen as an innocuous effort with an uncertain future. However, when it appeared that the bilingual methodology had gained enough support to become institutionalized as an integral part of the largest school systems in the country, the segregation issue surfaced as a serious national concern.

Many educational policymakers, seeking to guard against the potential of prolonged segregation, had attempted to limit the children's participation in bilingual programs to three years while insisting that they be mixed in nonacademic areas where verbalization was not essential to understanding of the subject matter.

Some guidelines further stipulated that programs in bilingual education must be located in the regular public schools of the district rather than in separate facilities.

BILINGUAL TRACKS

However, most of these safeguards could be circumvented in one way or another—and many were. Some school administrators, claiming that scheduling problems precluded the daily mainstreaming of LESA students, often kept these students isolated for the entire day in self-contained "bilingual" classrooms in which all participants were homogeneous—even during nonacademic, recreational, and free periods, as well as nonstructured activities. (Two-way bilingual programs, in which two different groups study each other's language, had not been viable because of poor participation by native English-speaking students.) The lack of clear entry and exit criteria was extending the children's participation in bilingual programs long after they were able to function in the standard classroom and curriculum—giving these programs the unnecesary and undesirable stigma of permanent tracks.

That most projects went beyond a simple transitional approach was attested to by findings that less than one-third of the students enrolled in the Title VII Spanish/English classrooms in grades two through six were of limited English-speaking ability. The American Institutes of Research found that 85 percent of the project directors in their study admitted retaining students in bilingual programs after they had become proficient in English. Selection of students was often also a questionable process. Some reasons given by teachers for placing students in bilingual programs included:

Spanish surname	7%
already bilingual	22%
parents' request	39%
other reasons	32%

While school administrators blamed these practices on the lack of accurate procedures to measure language ability in children, critics of bilingual instruction saw them as efforts to perpetuate bilingual education by "padding" the programs with ineligible students and recycling them. This "tracking device," critics said, was exacerbated by segregation.

CRITICAL MASS CRITERION

The reluctance to disperse the participants of a bilingual program was frequently justified by the claim that having a minimum of one class-size group of students massed together was critical for the school to provide cost-effective bilingual services. Indeed, laws mandating bilingual instruction usually did not require compliance if fewer than twenty students in the district were of limited English-speaking ability. Obviously, if bilingual programs were contingent

upon the strength of numbers, the larger the group of students that could be clustered, the more comprehensive the program that could be offered. Most programs—regardless of size—were usually implemented in one "centralized" location with all its components and participants assembled under the same roof. Segregation was seen as a necessary evil in bilingual programs and, conversely, desegregation was seen as disruptive to bilingual education because it dispersed the critical mass believed necessary to justify bilingual instruction. Naturally, then, bilingual advocates felt that bilingual programs should be exempted from desegregation.

José Cárdenas, director of the Intercultural Development Research Association of San Antonio, challenged the validity of the critical mass criterion. He contended that "critical mass" was a logistical tool for administrative convenience, not a pedagogical principle. "Consider," he said, "the logic of telling one blind child in a classroom that as soon as nineteen other blind children enroll in the school, he or she will be provided with Braille books and other essential services." Cárdenas disagreed that Hispanic students had to choose between bilingual education and school desegregation. He offered a third alternative involving a form of individualized instruction utilizing flexible grouping techniques, changing classes during the school day, staff differentiation, and tailoring of resource materials. The key to Dr. Cárdenas' solution was found in two points:

1. We must change our perceptions of the classroom teacher from an instructor role to that of facilitator of learning.
2. Schools which perceive themselves to be ill-prepared for new learning arrangements must be willing to invest in the development of their technical and organizational capabilities.[293]

Bilingual educators dreaded the difficulties of mainstreaming students, feared what they perceived as the adulteration of programs, and worried about their own self-preservation. Citing the role model value, Affirmative Action directives, and common sense, they reasoned that significant concentrations of bilingual pupils had occasionally warranted the appointment of top level administrators who could "relate" (because of a common national origin) to the target student population. By the same logic, they also reasoned that the disintegration of bilingual programs would not only stunt and possibly reverse their upward mobility, but even threaten their professional survival. This line of reasoning led some observers—even within the Hispanic community itself—to decry the way some bilingual advocates would have prostituted a promising program by assessing it in terms of its political value or personal gain. The fact that some programs were being run by Hispanic teachers and administrators, gave the impression of a united, ethnically identifiable enterprise.

NOT INCOMPATIBLE

Prominent bilingual educators, concerned with the apparent dichotomy between Blacks and themselves, argued that school de-

segregation and bilingual education need not be mutually exclusive. Dr. Ricardo Fernández, president of the National Association for Bilingual Education (NABE), which had been formed in the early 1970s, explained that both strategies were intended to equalize educational opportunity for underachieving minorities.

Calling for mutual support and cooperation between Hispanics and Blacks, Sarah Meléndez, another president of NABE, told a group of Hispanic leaders that either ignoring or avoiding desegregation was an untenable, irresponsible, no-win position for them. "Desegregation plans developed and implemented without our active participation," she said, "could shatter bilingual programs." But Dr. Meléndez added that total exclusion from the desegregation process could convert bilingual programs into tracks isolated from vital resources, services, and life experiences essential to children's ultimate survival in a competitive society.[294]

Dr. Josué González observed that, for the most part, Black educators were tending to specialize in desegregation issues while Latino professionals were specializing in *Lau*-related matters (which was very much to be expected). He suggested, however, that both groups could stand some cross-fertilization and urged the development of mechanisms for closer collaboration in their respective tasks. "We also need to become more interdependent," he added "we can accomplish this at least partially by developing a cadre of bilingual experts among Black educators and some expertise about desegregation among Latino professionals."[295]

Dr. Samuel Betances of Northeastern Illinois University reminded his fellow Hispanics that bilingual education in the U.S. had been resurrected by the Civil Rights struggle waged by the Blacks.[296] Speaking to a mixed group of Hispanics and Blacks, a concerned Latino expressed it eloquently: "We did not come here on the same ship, but we are all in the same boat now."

THE COURTS DECIDE

At the root of the bilingual education vs. school desegregation controversy was a mutual suspicion on the part of Hispanics and Blacks about their respective agendas, resulting from ignorance of each other's historical perspective. Fueling the discord were arguments over the distribution of meager social action funds. Hispanics felt Blacks were not sharing these equitably with other minorities. Blacks felt Hispanic demands were drawing institutional attention and resources away from Black priorities. Some of this seemed evident in several litigations involving desegregation. Affirming Hispanics as a cognizable minority group with needs based on language—not on race—many courts were supporting their right to bilingual instruction. In *U.S.* v. *Texas* (San Felipe Del Río), for example, the court in 1971 had ordered a comprehensive bilingual education program for Hispanics.[297]

Other courts were giving Hispanics the right to intervene or become formal participants in pending litigation between Blacks

and the school system.[298] In *Evans* v. *Buchanan*,[299] a desegregation case involving Black plaintiffs and Hispanic intervenors in Wilmington, DE, the court prohibited the reduction of existing bilingual programs that served only 375 Hispanic students, less than one percent of the total pupil enrollment. In Boston, where more than 3,600 Hispanic students were found to need bilingual instruction, the plan adopted by the court also required bilingual programs for other less numerous linguistic minority students: 519 Chinese, 370 Italian, 190 French Haitian, 160 Greek, and 60 Portuguese.[300]

In *Keyes* v. *School District No. 1* (Denver, CO), the first desegregation case involving a northern district, the district court in 1973 ordered a bilingual education program included in the Denver desegregation plan—based on the expert testimony of José Cárdenas. Dr. Cárdenas theorized that certain characteristics of minority students, such as poverty and mobility—as well as alien culture, language, and societal perceptions—impeded their success in instructional programs designed for White, middle-class, English-speaking students. He suggested that school programs needed to be more compatible with the characteristics of these students. This theory, developed with Dr. Blandina Cárdenas, essentially supported a tri-ethnic desegregation plan, not only recognizing the incompatibilities between minority children's needs and the White Anglo-dominant school system, but also cognizant of the fact that the problems of Black and Hispanic children could not be resolved with a blanket "minority" remedy.

In 1976, the Tenth Circuit Court of Appeals reversed the district court's opinion and ruled that maintaining a segregated school—even for purposes of bilingual instruction—violated the Constitution. The decision stated: "Bilingual education ... is not a substitute for desegregation. Although bilingual instruction may be required to prevent the isolation of minority students in a predominantly Anglo school system, such instruction must be subordinate to a plan of desegregation."[301] Essentially, the court confirmed the fact that, although bilingual education was a statutory right, desegregation was a constitutional right—which would prevail.

RECONCILING THE CONFLICT

Again, desegregation and bilingual education did not have to be mutually exclusive, thus both could be implemented in tandem once the initial threshold of acceptability was passed. One strategy used in Boston was to form class-size clusters of LESA students who were in the same grade level and disperse them throughout the district as appropriate. Then, using the remaining district enrollment, complete each school's pupil assignment as necessary to reach the desired race/national origin mix. The use of these administratively feasible clusters to serve as a nucleus in each desegregating school was subsequently implemented in Wilmington, DE and

Buffalo, NY to safeguard the integrity of bilingual programs while achieving desegregation.

In the late seventies, the New Jersey State Department of Education began to request local districts to submit tri-ethnic desegregation plans to the Chief State School Officer, taking into consideration their national origin (as well as their Black and White) pupil enrollments. Other states were implementing similar processes.

A series of conciliatory efforts were begun in the late seventies to resolve the conflict between bilingual education and school desegregation. A national conference on desegregation and education concerns of the Hispanic community was held in Washington in 1977.

The following year, the National Urban Coalition sponsored a meeting of Black and Hispanic leaders to attempt to iron out some of their major differences. At the conclusion of the conference, throughout which both groups continuously corrected each other's misinterpretations of one another, the participants pledged to cooperate on common goals.

The National Project and Task Force on Desegregation Strategies took the initiative to explore ways to incorporate bilingual instruction in the nation's desegregation effort. The subject was on the Task Force's agenda at its May 1979 meeting in Washington.

The National Association for Bilingual Education passed a resolution during its 1979 convention in Seattle calling for formal interaction between bilingual educators and desegregation advocates, but there was no follow-up. A series of regional conferences conducted by the U.S. Department of Education's Hispanic Concerns Staff included desegregation on their agendas.

The Illinois State Department of Education conducted a "brain-picking" consultation involving the nation's top experts in the field of bilingual/desegregation interfacing. The New Jersey State Department of Education conducted a series of workshops in 1981 intended to sensitize the State's Hispanic leadership regarding desegregation issues and to elicit their support for the desegregation process. At its eleventh annual conference (held in Detroit in 1982) NABE, which boasted a membership two thousand strong, went on record as supporting desegregated/integrated education. A subsequent NABE convention in Washington, DC likewise dealt with desegregation as a high priority issue.

Two-thirds of both Black and Hispanic students were attending predominantly minority schools in 1974. A study conducted two years later showed that 74 percent of all Hispanic children in elementary grades and 65 percent of those at the secondary level were enrolled in predominantly minority schools. By 1980, eighty percent of all Hispanic students were concentrated in five percent of the nation's schools.[302]

The highest proportions of Hispanic children attending schools that were at least ninety percent minority enrollment were found to be in New York (57 percent), Texas (40 percent), New Jersey (35

percent), and Illinois (32 percent). Most Hispanics, however, were not simply in minority schools, but in identifiably-Hispanic schools, thus they were isolated from both Whites and Blacks. In addition, Hispanic children were most likely to be segregated within the school building either because of linguistic differences or because of "learning disabilities" determined by tests (in English) that the (LESA) children could not understand. Thus, it was likely that more Hispanics and fewer Blacks would be going to court to plead for desegregation remedies—as well as to continue demanding bilingual services for their children.

Trying to force the introduction of bilingual education, Chicano school children in Mesa County (Colorado) claimed in the mid-seventies that the programs provided to them were inappropriate and violated their rights under Title VI and the Equal Protection Clause of the United States Constitution. In support of their claims, plaintiffs in *Otero* relied heavily on the Cárdenas-Cárdenas Theory of Incompatibilities. While this case was being litigated, however, the Appeals Court reversed the original *Keyes* v. *Denver* decision. Relying on *Keyes*, the *Otero* court eventually held the Fourteenth Amendment did not require school districts to offer bilingual-bicultural programs. In addition, the court found that plaintiffs did not prove the necessary facts to establish a violation of either Title VI or the Fourteenth Amendment.[303]

NATIONAL ORIGIN DESEGREGATION

The U.S. Congress, through legislation, charged the Federal bureaucracy with the responsibility of protecting those groups whose civil rights had been historically violated: Blacks, national origin minorities, women, and disabled persons. National origin minority groups consisted of Hispanics, Asians, Pacific Islanders, Native Americans, and Alaskan Natives. Half of these students had only a limited English proficiency (LEP). Thus, while racial segregation was considered to be the most palpable indication of the denial of equal educational opportunity to Black students, the biggest obstacle to equal educational opportunity for national origin minority students was believed to be the language barrier.

Enforcement of antidiscrimination laws in education—which dealt with biased or unequal treatment based on race, national origin, sex, or handicapping conditions—rested with HEW's Office for Civil Rights (OCR). OCR involvement was usually triggered by either a complaint of suspected discrimination or data from LEAs' annual enrollment reports that would indicate pupil isolation (or tracking) by race, national origin, or sex. OCR would visit the district and, if discrimination or segregation was confirmed, the district would be cited for noncompliance with law. In the case of discrimination or neglect based on language or national origin (it did not matter if discrimination was *de jure* or *de facto*) the district would be asked to develop a remedial plan—based on the Lau guidelines—and submit it to OCR. Once approved, the district would then

implement the plan under monitoring by OCR.

It was quite obvious (or should have been) that the government was not interested in persecuting school agencies for non-compliance. OCR officials were more concerned with "rehabilitating" an errant school district than in prosecuting or punishing it. Thus, the Federal government played a dual role in handling discriminatory practices by, both, enforcing Civil Rights laws and assisting districts in complying with them. OCR performed the regulatory duties associated with Title VI of the Civil Rights Act.

The technical assistance component of the Civil Rights Act, Title IV, provided grants-in-aid to help local school districts implement equal educational opportunity (EEO) programs. Title IV also funded the EEO units of state educational agencies (SEAs) as well as regional desegregation assistance centers (DACs) to enable them to provide technical assistance in three separate categories of desegregation—race, national origin, and sex—to *requesting* school districts.

Both the SEA's national origin desegregation units and the regional national origin desegregation assistance centers (NODACs) were generally referred to as "Lau" centers. Several state and nine regional Lau centers were funded throughout the country to provide services in the form of technical assistance and training to school districts and publicly-supported K-12 educational agencies having students who came from environments in which the dominant language was other than English. The principal types of assistance provided by the centers were: assessment of specific needs; modification of administrative structures and procedures; revision or development of curriculum materials and methods; community relations and staff training programs; and technical assistance in the development of funding proposals.

Since the language barrier had been targeted by the Federal government as the prime obstacle to educational equity for national origin minority students, officially, state Lau centers and regional NODACs were expected to deal almost exclusively with language-related problems and their remedies. This focus, of course, negated a large constituency of minority students who spoke English fluently (either because they had been born here or had come here very young) but were still subjected to physical and cultural isolation as well as other forms of discrimination, blatant or subtle, because of their national origin.

Indeed if language had been the only barrier to equal educational opportunity, many would argue, the Black children should have had little or no trouble achieving academic success. Obviously, other factors—tangentially related to language—were impeding the progress of national origin minority students.

The Civil Rights guidelines presupposed that these other discriminatory practices would be remedied by the *race* desegregation component of the Title IV program, including the race desegregation assistance centers (RDACs) and State EEO offices. That assumption proved wrong, however. Just as schools generally did not involve

national origin minority students in their desegregation efforts, race desegregation agencies such as RDACs and other institutes generally did not have the capabilities to provide services to non-Black minority students.

Therefore, Lau center personnel and other national origin desegregation technicians had to be unique people in that they had to be knowledgeable of both school desegregation and bilingual education, for they often had to help mediate programmatic conflicts between the two strategies. They worked with districts to make sure that bilingual programs would not be disrupted in the desegregation process. On the other hand, however, they also made sure that LEP students were not unnecessarily isolated or tracked for prolonged periods of time. In other words, unofficially, regional and state Lau centers helped reconcile the seemingly-competing goals of desegregation plans and bilingual education programs.

Although no formal connection existed, state and regional Lau centers maintained regular contact with OCR in order to stay current with evolving OCR guidelines, priorities, and concerns. This propinquity, creating the appearance that the two agencies were one and the same, made some districts wary of requesting assistance from Lau centers for fear of tipping off OCR of vulnerable shortcomings in their programs. This sometimes subjected Lau centers to unprovoked hostility from some LEAs. Yet, conversely, many other districts leaned heavily on Lau centers for help with training, materials, and on-site consultation—sometimes toward voluntary compliance; sometimes as a preventive measure.

The question of turf was often a sensitive factor, with school administrators resenting "outsiders" coming into their districts to suggest unwanted modifications in their *modus operandi*. Having to persuade school districts to accept their services in the face of preponderant evidence of student neglect had to be, unquestionably, an extremely diplomatic challenge. It was also, more often than not, a thankless task.

14 Bilingual Education in the Bicentennial

TWO HUNDRED YEARS after the birth of the nation, bilingual education was still part and parcel of American education, still maligned, but still viable. Unlike the predominance of German programs circa 1776, bilingual education in 1976 primarily involved Hispanic children. This was evident, for example, in the language most used by publishers of bilingual materials. Thus, districts seeking to implement bilingual programs for Spanish-speaking children were able to select materials based on quality rather than availability, particularly in the area of reading. There was still a lack of materials, however, for speakers of other languages. Districts with non-Spanish bilingual programs still had to develop nearly all of their own content area materials and curriculum guides. Besides Spanish, languages for which the largest bodies of students needed bilingual materials around 1976 included French, Portuguese, Italian, Chinese, Japanese, Vietnamese, Korean, Filipino, Native American (including Eskimo), and Greek.

The speakers of these languages were not evenly distributed throughout the United States. Rather, different languages were prevalent in different areas of the country. Spanish was spoken by Mexican-Americans in the Southwest, Puerto Ricans in the Northeast, and Cubans in the Southeast. French was spoken by Franco-Americans in Louisiana and Maine. Boise, ID had a large community of Basques. In Massachusetts, a thousand Portuguese immigrants were arriving monthly in the Greater Fall River-New Bedford area. Many came from the Cape Verde Islands and also spoke Portuguese. Sixty percent of Fall River was Portuguese and more than half spoke no English. Thus the responsibility of providing bilingual instruction was not equally spread throughout American school districts; it rested squarely on those districts impacted by language minority pupils. They alone shared the responsibilities and the problems associated with it.

Other problems, besides the paucity of materials, included serious deficiencies in evaluation, administration of programs, entry and exit criteria, and parental involvement. Makeshift needs assessment and evaluation processes, improvised at the start of the bilingual programs, were still in place in most implementing agencies. The administration and supervision of bilingual and ESL programs were often delegated to district administrators who were responsible for several other programs as well. These adminis-

trators, while competent in their primary field, usually had little experience in the area of bilingual education. Often, those who were competent in bilingual education had no administrative experience or were so overloaded with responsibilities as to incapacitate them.

Educational agencies seemed unable to develop and disseminate reliable assessment instruments for the selection of program participants. Pupil identification was generally left to local districts and was consistently inaccurate.[304] Parental involvement, which was mandated by some laws, was often shallow at best—often no more than a token effort. The usual difficulty in involving parents in school activities was exacerbated in this case by the (1) institutional inability to communicate with their communities and (2) Hispanic parents' tendency to leave education to professional educators.

This poor flow of information (both ways) had proven very detrimental to Hispanic parents many times, many ways. They—more than other minorities—were usually the last to find out about opportunities and the least able to understand how to avail themselves of vital services. This had been evident in the only district ever to have experimented with a voucher system. The Alum Rock School District in San José, CA, ran a voucher program from 1972 to 1976 for public schools. Yet, despite extensive bilingual advertising, Mexican-American families were less familiar with the program than were Blacks (who in turn were less aware than were White Anglophone families).[305]

TESOL SUPPORT

In addition to the information gap—as well as other administrative, pedagogical, and political problems encountered in educating LEP students—those who advocated bilingual education often found themselves in conflict with the values and priorities of other interest groups: such as other educators, teacher unions, and Civil Rights groups. ESL teachers had opposed the bilingual movement from the beginning on grounds that it was not necessary and it would not work. Bilingual advocates observed that what was at issue, really, was the question of turf—ESL teachers feared being replaced by native language teachers. Advocates of ESL-only and advocates of the bilingual approach remained at odds with each other for a few years. By the mid-seventies, however, ESL teachers had joined the bilingual bandwagon, as evidenced by the fact that many ESL organizations were hyphenating the word "bilingual" to their names. Many local affiliates of TESOL (Teachers of English to Speakers of Other Languages), for example, became TESOL/Bilingual associations.

In fact, in 1976, International TESOL adopted a position paper on the role of ESL in bilingual education. It delineated a number of strategies to foster cooperation and concluded with the following recommendations:

Teachers of English to Speakers of Other Languages recognizes that the goal of education is to provide the students in accordance with their full potential, with the knowledge necessary to liberate them to make choices within the society or societies in which they choose to live.

Students of limited English proficiency must be provided with opportunities to learn subject matter commensurate with their potential, age and grade level and the opportunity of learning the language of the dominant society—English.

These educational goals can be more effectively fulfilled in the cognitive and affective domains through instruction in the students' dominant language and culture and instruction designed to develop full communicative competence in both their mother tongue and English.

Therefore, the international organization of Teachers of English to Speakers of Other Languages endorses and supports the bilingual approach to education, recognizing that it provides students of limited English proficiency with equal educational opportunities. English as a second language is an integral and essential component of bilingual-bicultural programs in the United States.

The international organization of Teachers of English to Speakers of Other Languages urges all those involved in the education of students whose dominant language is not English to join forces in improving and promoting bilingual education.

The change of heart, observers agreed, was due to several reasons which probably included:

(1) the bilingual momentum was too strong to stop;
(2) ESL teachers had become convinced that ESL instruction was an integral part of bilingual education, so the movement was no longer a threat (it was, in fact, expanding the market for ESL teachers);
(3) bilingual education had gained respectability as an educational alternative.

THE CANADIAN CONNECTION

Teacher opposition to bilingual education had not only come from ESL teachers, of course; it had been rather widespread. Implicit in any effort to change is a message that existing practices have been ineffective. Many educators read into the bilingual alternative a kind of indictment against traditional education. Some felt compelled to defend the integrity of the status quo by discrediting the bilingual challenge and questioning the motives of those associated with it. Still other critics of bilingual education were alarmed at what seemed to be a concerted move toward national bilingualism. Encouraged by the success of bilingual instruction, many bilingual advocates had begun to suggest in the mid-seventies that bilingualism would be a good idea for the nation in toto. However, the average American felt that bilingualism would be detrimental to the national cohesiveness that only a single common language could

maintain. Citing the Canadian linguistic/political discord, a *New York Times* editorial warned against "a misguided linguistic separatism that, while it may seem to promise its advocates limited political and ideological power, can only have the effect of condemning to permanent economic and social disadvantage those who cut themselves off from the majority culture."[306] In a letter of rebuttal, Professor Joshua Fishman of Yeshiva University pointed out that ethnocultural divisiveness was far too deeply imbedded in a pervasive socioeconomic matrix to be "caused" by any kind of education. And bilingual education per se, he added, was unfailingly unifying rather than divisive. The hallmark of all bilingual education was that it included a unifying supra-ethnic language of wider communication. (In our case, English.)[307]

In his study, Prof. Calvin Veltman provided important information about the status of linguistic assimilation in the United States as compared to that in two provinces of Canada. The statistical information presented clearly showed, according to the research, that there was "no comparability whatsoever between the language situation in Quebec and that in any part of the United States." Therefore, the expressed fears that linguistic separatist movements in this country might follow the example of Quebec (whose 1980 referendum, incidentally, rejected separation from Canada) were without foundation.

Information from the 1971 Census of Canada revealed that the rate of Anglicization varied considerably between French speakers in Quebec and those in Ontario—presumably due to their differing political attitudes toward English. Using the 1976 National Survey of Income and Education, Veltman found that a similar disparity existed in the United States. The rate at which ethnolinguistic groups in the U.S. shifted to English as their usual language was lower for Hispanics than for any other group. This may have been related to a phenomenon often observed by anthropologists. They had noticed that conquered or displaced national groups tended to cling to three principal cultural attributes: language, typical or accustomed foods, and religion. Hispanic language loyalty was sometimes blamed for the generally low English proficiency among Hispanic youngsters.

More children aged 5-14 years living in households where Spanish was spoken were LEP than were children of the same age living in households where other non-English languages were spoken. Specifically, there were 1.7 million Spanish language background children aged 5-14 with limited English-speaking ability. This was 73 percent of the total number of children in this age range living in households where Spanish was spoken.

By contrast there were 0.7 million children aged 5-14 years from all other language minority backgrounds combined who were LEP. This was only 47 percent of the total number of children in this age range living in households where other non-English languages were spoken.

Using the same data base, Veltman found that Hispanic chil-

dren born in the U.S. Mainland who spoke both English and Spanish did better in school than those who spoke only English. In spite of the obvious need for English as the principal language, dropping Spanish altogether did not contribute toward achieving academic success.[308]

The most serious problems were being encountered by Hispanic children born outside the U.S. Mainland who spoke only Spanish. Thus bilingualism—and, more specifically, English-dominant bilingualism—appeared to yield the greatest educational benefit.

Examining his own research and that of others, G. Richard Tucker stressed that he would not "recommend ... that Mexican-American, Franco-American, or other limited or non-English-speaking youngsters in the United States be submerged in English medium programs." Characterizing the Canadian experiences in bilingual education and comparing them to efforts in the United States, Tucker concluded that bilingual education should take the form of a carefully developed language arts program integrated into a general curriculum in which content is also taught in the mother tongue. "The purpose," he said, "is to sustain and to nurture youngsters' linguistic and cognitive development while teaching the second language and gradually introducing content materials in the second language, without abandoning the language arts or the content material taught in the mother tongue."

BILINGUAL MOVEMENT CONTINUES TO GROW

Linguistic experts were generally concerned with the preservation of the student's mother tongue during the learning of the second language. They understood the importance of a bilingual citizenry. However, they also understood that national bilingualism, although a desirable goal, was an unrealistic one. A somewhat paranoic portion of the citizenry, who apparently read more into the bilingual education manifesto than was actually there, saw the bilingual movement as a sinister force, which needed to be stopped. The ideal of national bilingualism, therefore, had become a red herring of sort, drawing attention away from the immediate critical needs of LEP students. Thus in the late seventies, bilingual educators were careful to moderate their public pronouncements and limit their advocacy efforts to maintaining bilingualism among national origin students who already spoke another tongue. The rhetoric was becoming less idealistic and much more practical. "Maintenance" bilingual education, however, was still considered the only sensible approach for schools to follow. In addition, bilingual inroads were being made into the fields of special and vocational education.

The 1974 Congress had created a discretionary program for bilingual vocational training for limited-English-speaking persons. In the 1976 amendments to the Vocational Education Act of 1963

Congress not only continued the discretionary programs for bilingual vocational training for persons of limited English-speaking ability, but also provided that the states serve them under the "twenty percent disadvantaged set aside." The Act required every state receiving funds from the Federal government for the purpose of providing vocational education to all persons in all communities of the state to set aside a minimum of twenty percent for persons who were described as "disadvantaged." Included in this category were persons who had limited English-speaking ability.

Two years later, OCR issued final regulations in 1979 intended to end discrimination in Federally-assisted vocational education programs. Based partly on Title VI of the Civil Rights Act of 1964, the guidelines spelled out criteria for access to programs by LEP students.

Clearly, vigilant enforcement of Civil Rights was a fairly high national priority. So much so that government institutions and agencies were policing each other, thus resulting in a system of checks and balances on compliance. Congress was establishing criteria for the Federal government which, in turn, had become the watchdog to local governments and other organizations. The courts, meanwhile, were keeping all institutions honest. In fact, slack enforcement efforts of Civil Rights by the Nixon administration spurred a court order, in *Adams v. H.E.W.*, requiring expeditious HEW efforts and setting specific time frames for the resolution of all Civil Rights cases brought before OCR:

- ninety days to investigate a complaint and determine whether a violation had occured;
- ninety days to negotiate a voluntary corrective settlement;
- thirty days to launch formal enforcement action—if necessary.

By the end of 1976, LEAs in most states could legally implement bilingual education programs. Three-fourths of the states had bilingual projects. LEAs in some states were still prohibited by law from giving classroom instruction in any but the English language, but at least four of these were choosing not to enforce this prohibition and were operating ESEA Title VII projects. Only West Virginia was still enforcing its English-only policy. Thus, 42 of the fifty states had operating bilingual projects during 1976.

Twenty-two states reported over 1.3 million school students as limited English speakers and therefore eligible for bilingual education. Of these, approximately half a million students (forty percent) were enrolled in bilingual instruction programs. Of those enrolled, over eighty percent spoke Spanish as their home language.

The U.S. Department of Justice, in 1976, stopped an eight-year-old INS policy of charging all incoming Cuban refugees against the immigration quota for the entire Western Hemisphere. Shortly afterward, a Federal court ruled—in a class action lawsuit filed by a Mexican alien named Rejugio Silva—that the Western Hemisphere

quotas had been discriminatory. Therefore, immigrants who had applied for, and had been denied, visas and had subsequently come to the United States illegally were allowed to apply for a provisional permit. This document, which became known as a *Silva* letter, enabled them to stay in the U.S. while visas were issued to rectify the quota number erroneously assigned to the Cubans. Silva letters were issued to approximately 215,000 Western Hemisphere applicants, although the U.S. State Department was planning to issue only 150,000 new visas to these immigrants, which meant that 70,000 letterholders would not enjoy permanent status.

In 1976, a plurality of the Puerto Rican electorate, 48 percent, elected the New Progressive Party, which advocated statehood for the island. Only 6 percent of the voters supported the Independence Party. Some political observers believed this was an indication that Puerto Rico could be headed for a future as the fifty-first state of the Union. The reverse migration that had started at the beginning of the seventies had continued to increase, and, by 1977, homebound Puerto Ricans outnumbered emigrants by nearly 47,000—some of whom were returning to the island for the second or more times and some of whom would be coming back to the Mainland again in the near future. This "circular migration" was one of the strongest arguments for bilingual education, for these "remigrants" alternately lived in two cultures and needed to retain both languages in order to survive in both worlds. Some 57,000 young returnees in the public schools of Puerto Rico in 1977 were limited Spanish proficient and were suffering severe adaptation problems—cultural as well as linguistic. In general, return migrant adolescents experienced drastic changes in their self-identity and self-esteem; in their family and interpersonal relations; and in their relationships with broader aspects of their new environment, including its physical and cultural dimensions.

The growth of bilingual-bicultural education in the United States continued slowly in 1977, hampered by generally weak political support and widespread confusion and debate over its basic philosophy. On the whole, states were playing a limited role in bilingual education. With few exceptions, the number of SEA personnel involved in the bilingual efforts was small and occupied a relatively low priority in the bureaucractic hierarchy. Consequently, provisions for statewide leadership and technical assistance to LEAs were necessarily inadequate. Even the bilingual laws in many states were not explicit or substantive. Thus, it was unclear whether certain states definitely mandated, merely permitted, or strictly prohibited bilingual instruction. A lack of consensus over definitions made it difficult to ascertain to what extent bilingual education was being delivered or simply promised.

Because each program funded by Title VII ESEA had been designed by the applicant and because state bilingual laws varied depending not only on the needs identified by educators but on the political priorities of each state, every bilingual program in the U.S. and its territories differed somehow from other bilingual programs

in the country. Some were fairly standard; some were unique. Guam, for example, had a program to teach the Chamorro language and culture, but did not use Chamorro as a medium of instruction. In essence, each state fashioned its bilingual programs to suit the needs of its constituents and each program boasted its own particular brand of success.

BILINGUAL TEACHERS

The proliferation of State legislation mandating bilingual instruction, along with the continuation of Title VII programs, created for the first time the need for regulating the licensing of teachers in this field. By mid-1977, eleven states (Arizona, California, Delaware, Illinois, Indiana, Massachusetts, Michigan, New Jersey, New Mexico, Rhode Island, and Texas) had adopted certification standards or special requirements for personnel working in bilingual education or other programs designed to meet the needs of LEP students. The requirements varied considerably among states, reflecting not only the experience and sophistication of each state in this area, but also the level of commitment to the cause. All eleven states were requiring proficiency in a language other than English, as well as competence in the culture and heritage of the minority groups to be served. Five (Arizona, Illinois, Massachusetts, New Jersey, and Texas) were also requiring proficiency in English.

Teacher certification was a job-related requirement and, as all economic issues, became a hotly-contested matter—with suits filed against some states and testing institutions. The New Jersey Education Association, for example, sued that State's Department of Education challenging the validity of a language proficiency test administered by Educational Testing Services. The court's ruling, while agreeing with some of NJEA's allegations during the hearings, confirmed the State's prerogative to set certification standards. Some of the complaints leveled against certification requirements in some states were based on the following:

1. Teachers in bilingual programs were expected to be fully bilingual; required, in fact, to pass proficiency examinations in both languages. School administrators did not "buy" the concept of team teaching in which each teacher would function in his/her dominant language only: one teaching content in the students' dominant language and the other teaching English as a second language.

2. An endorsement required by some states on the certificates of bilingual and ESL teachers, in addition to the established criteria for standard certification, was regarded by those affected as double (sometimes triple) certification—and discriminatory. Education officials agreed that it constituted double or triple certification but rejected the discrimination charge. They contended that similar demands were made of guidance counselors and vocational educators, for example.[309]

3. Some State teacher certification offices refused to honor a "grandfather clause" which would have exempted from the new

certification requirements those teachers who were teaching in bilingual education programs prior to the existence of the bilingual or ESL certificate. Some of these early pioneers had, in fact, written successful proposals for bilingual grants, designed programs, developed curriculum, and taught bilingual college courses to up-and-coming bilingual educators—the very courses that had qualified these newcomers for certification. Now these veterans were being required to take "qualifying" courses, many of which were being taught by their former students.

On the other side of the certification issue was the union contract. Some school districts alleged that contract rights of teachers clashed with the implementation of bilingual programs. Some school administrators argued that in order to hire new bilingual teachers they would have to lay off monolingual teachers with more seniority—possibly with tenure. The crux of this argument, some Hispanic leaders observed, was whether teachers' contract rights or students' needs would prevail in a conflict. Alleging there was a quota system implicit in bilingual-bicultural education, AFT President Albert Shanker contended since the early seventies that bilingual educators were merely creating jobs for which only national origin minorities would qualify, thereby excluding other educators from scarce employment opportunities.[310] Yet, statistics did not support this charge.

In New York City schools, Puerto Ricans constituted 26 percent of the student population but only one percent of the teaching staff. In New Jersey, where 8.3 percent of the public school enrollment was Hispanic, only 1.5 percent of the teaching staff was Hispanic. The largest proportion of Hispanic teachers—6 percent—was found in Hudson County, where the Hispanic enrollment was 39 percent. In California, more than 28 percent of the student enrollment was Hispanic, but less than 6 percent of the professional school staff was Hispanic.

Frequently, bilingual education programs in the U.S. were staffed by English-speaking teachers supported by an assemblage of Spanish-speaking aides. In fact, in 1973, the NEA had estimated that 84,500 Spanish-speaking, 7,400 Native American, and 3,500 Asian-American teachers would have to be hired in order to bring about a national origin student-teacher ratio approximating the nationwide need.

Another nationwide survey of the language proficiency and educational background of teachers serving LEP children conducted in 1976-77 found that only one-third of the 120,000 teachers working with language minority children were teaching them in their native language. The other two-thirds were teaching them ESL. Of the 42,000 teachers using the children's native language for instruction, only one in seven were considered fully qualified. Less than half of the 42,000 had academic training in bilingual education. Apparently, many teachers were being assigned to bilingual classrooms on the basis of their language skills alone, rather than on the basis

of professional training in bilingual education. However, only one-third of the 42,000 were Hispanics—some of whom spoke English as their native language. Further, few classrooms had Hispanic teachers; in 1976, less than three percent of all public school employees in the United States were Hispanic, with nearly as many Hispanic service workers (custodians) as Hispanic teachers. Of the 27,000 non-Hispanic teachers working with language minority students, 5,000 spoke other non-English mother tongues.

The results of the survey indicated that there was a shortage of teachers with basic preparation in bilingual education, even though there were many teachers with some preparation in bilingual education whose training was not being used. Although 130,000 teachers had some degree of training in bilingual education, only one-third of them—22,000 of whom were teaching ESL only—were actually using their skills in schools.

Only one percent of all faculty in the U.S. was Hispanic—including those teaching Spanish and working in bilingual education programs. With many employed in special assistant or affirmative action/equal employment capacities, even fewer held substantive policymaking positions. It would have seemed apt, although admittedly a radical notion, that as the ethnic composition of municipalities changed from predominantly Anglo-Saxon to Mexican-American, Puerto Rican, or Cuban, the content and style of the schools' curricula, as well as staffing patterns, would have changed accordingly. Quite to the contrary, however, Hispanics were finding themselves victims of another double jeopardy: underserved by programs designed to redress inequities and illserved by the popular notion that the inequities no longer existed.[311]

15 Bilingual Program Evaluation

THE DECADE OF the seventies was marked by a relentless demand for accountability in education—especially in bilingual education. Evaluation components were built into individual bilingual programs—often as a condition of funding. These evaluative efforts yielded encouraging data, but very few were validated and disseminated. The paucity of scholarly research and evaluation of bilingual programs would later prove to be the Achilles heel of the bilingual movement—albeit unfairly so.

In two separate studies, Dulay and Burt[312] (1976) and Zappert and Cruz[313] (1977) appraised the results of nine bilingual research studies and three bilingual project evaluations. In both cases, 58 percent of the findings were positive, 41 percent were neutral, and only 1 percent was negative. The appraisers explained that a neutral effect was a positive finding because it meant that students in bilingual education classes were learning at the same rate as students in monolingual classes. They concluded that learning in two languages did not interfere with a student's academic and cognitive performance. If, indeed, students in bilingual classrooms had the added advantage of learning a second language and culture without impeding their educational progress, a statistical non-significant finding could be interpreted as a positive effect of bilingual instruction. The variables examined in the study were oral language development, reading and writing abilities, science and mathematics, socal studies achievement, cognitive functioning, and self image. In addition, the researchers found empirical evidence that bilingual education programs improved school attendance.

INDIVIDUAL PROGRAMS

Bertha Treviño found that in the Nye School, outside Laredo, TX, both Spanish and English-speaking children learned mathematics better bilingually than they did when taught in English alone. When the Navajos evaluated their own bilingual school at Rough Rock, AZ, they found the children were more proficient in both languages than they would have been if forced to use English alone.

In a third-year program, both Spanish and Anglophone kindergarten students in the bilingual program of Philadelphia, PA exceeded the city-wide mean and a control school group on the

Philadelphia Readiness Test (a criterion-referenced test)—and attendance records were better than in the control group.

In 1969, prior to the beginning of the St. John Valley bilingual project in Madawaska, ME, as many as eighty percent of the French-speaking students scored below grade level in language and math on the Scholastic Aptitude Test (SAT). By the sixth grade, the median score in science was one and a half years below grade level. Randomly-selected French-English bilingual schools were matched with all-English control schools having students of comparable IQ and socioeconomic status. After five years (1970-75), bilingually-trained students were found to outperform students in the control schools in English language skills and math—and continued to remain ahead. Figures for 1974-75 showed that students in the bilingual program achieved average or above-average stanines in all subject areas on the Metropolitan Achievement Test (MAT) in grades 1-4. At the secondary level, project students scored within the 4-6 stanine range in English reading, math, and language arts on the SRA Achievement Test. In addition, students in the bilingual schools showed major gains in self-concept.[314]

Thirty-one matched pairs of students selected from the Douglas, AZ, bilingual program and from the regular program (using the Peabody Picture Vocabulary Test as a basis for matching) were administered the MAT in the spring of 1974 after two years in the program. Nineteen of these pairs subsequently took the Wide Range Achievement Test (WRAT) battery in 1975. In the second grade, the bilingual program students scored slightly lower on the English MAT than the controls (mean: 120 v. 128) and slightly higher on the Spanish MAT (though the differences were not significant). But by the third grade, bilingual program students outperformed the control group in English reading (62 v. 51), spelling (34 v. 32), and arithmetic (31 v. 29) and were ahead of the controls in Spanish as well. In addition, the bilingual program students exceeded the norm in English reading for their age level on the WRAT (62.47 v. 61.16).[315]

Chinese-dominant students in the San Francisco Title VII bilingual program in 1975-76 were at or above district and national norms in English and math in three out of six grades, and only one month behind in two others, as measured by the Comprehensive Test of Basic Skills (CTBS). In addition, English-speaking students in the program performed at or above national and district norms in *all* grades (demonstrating that the time spent learning Cantonese did not detract from English language development).

The Spanish Title VII bilingual program students in the seventh grade showed two months greater gain that regular San Francisco students on the CTBS during 1975-76, and were only one month behind other district students in the same schools. Additionally, the absenteeism among bilingual program students was less than one-third of the regular program students (3.6 percent compared to 12.1 percent).

Attendance figures from five secondary schools in New York City revealed that Spanish- and Chinese-speaking students enrolled

in bilingual programs consistently had a ten percent higher average daily attendance rate than the school as a whole.

In Lafayette Parish, the hub of the French society in Louisiana, students in grades K-3 in the bilingual program performed as well as or significantly better than a control group of students in the monolingual English program in all areas tested, including reading and reading readiness, linguistic structures, writing, math concepts, and social science.

On the Inter-American Test series, Latino children in Orleans Parish, LA showed a gradual measurable gain in comparison with an Anglophone reference group from preschool through grade three and, by the third grade, out-performed their Anglo peers in general ability when tested in both English and Spanish.

On the CTBS, Spanish-dominant children in the Artesia, NM bilingual program scored significantly higher than the control group in grades three and four in English and reading. Even English-dominant children in the program scored higher than their control group. In general, the control group children continued to lose positive self-image while the bilingual program children maintained or increased it.

A 1977 study carried out by Dorothy Legarreta in California compared the effectiveness of three types of bilingual approaches with that of two types of English-only approaches in developing English communicative competence of Spanish-background kindergarten children. The three bilingual treatments were found to be significantly superior to the two English-only treatments in developing English-language skills. The most effective of the three was one with balanced bilingual usage (fifty percent English and fifty percent Spanish).[316]

NATIONWIDE EVALUATIONS

Nationwide evaluation efforts were implemented by the U.S. Office of Education (USOE) at two different levels. One of them focused on individual programs. Data from these programs were screened by the Joint Dissemination Review Panel of USOE, which attempted to determine whether the results were valid, reliable, and educationally significant. Once validated, the data were disseminated for possible replication or other appropriate use.

The other level of evaluation studied the collective, nationwide impact of a class of programs funded from a common Federal grant. The first two of these nationwide studies were conducted practically back to back around 1976—and both reported negative results. The publicity surrounding these reports proved very detrimental to the bilingual movement, for it tended to substantiate the theretofore unfounded criticism from those who opposed bilingual education on purely personal or political grounds; worse, it provided an arsenal of "scientific proof" for unsympathetic legislators to justify the elimination of the programs; and, worst, they planted seeds of doubt

in the minds of those who had supported and sincerely believed in bilingual instruction.

The first report was released by the General Accounting Office (GAO) after a study conducted to assess the effectiveness of the Federally-supported bilingual programs and to suggest ways to improve their administration. It concluded that the programs had progressed little toward their goals of (1) identifying bilingual education approaches, (2) adequately training bilingual education teachers, and (3) developing suitable instructional materials. Two main factors contributing to the poor performance of the target population were isolated: (1) the language of limited English-speaking children may not have been used in classroom instruction, and (2) there may have been too many English-speaking children in project classrooms, diluting project effectiveness for target children. Inadequate monitoring and difficulty in assessing English language proficiency also constituted problems, according to the GAO Report.[317]

Still, however, the GAO study found that LESA children were benefiting from bilingual education programs in several ways. At the sixteen projects reviewed, the target children were receiving educational services and benefits that they otherwise might not have received. Available test scores indicated that some program participants made normal progress in reading and math, although most students did not achieve at rates comparable to national averages. However, the reliability of the test results was questionable because test instruments were believed to be inappropriate for LESA children. While no objective evidence was available, project personnel believed program participants had enhanced self-images, improved attitudes toward school, and increased appreciation for their dominant language and culture.

A.I.R. STUDY

The negative findings of the GAO Report were corroborated by the second study, designed to evaluate the programs' direct effect upon students' academic progress. That study was conducted by the American Institutes for Research (AIR), an independent, California-based firm, in behalf of USOE's Office of Planning, Budgeting, and Evaluation. It attempted to determine—among other things—the impact of bilingual education on students in cognitive and affective domains in Spanish-English Title VII projects, and its per-pupil cost. The study was based on a national sample of 38 bilingual programs that had been operating for at least four years. It examined the performance of more than 7,000 students in grades two through six during the 1975-76 school year. A somewhat smaller sample of these students (about 4,000) was followed up in the 1976-77 school year to allow more time for program effects to become evident.

The original AIR evaluation design called for the identification of non-Title VII classrooms with students who were comparable to the children being studied.[318] The progress of these comparison

groups during the test period (approximately one-half year between pre- and post-tests) provided a profile on which to estimate how children in the bilingual classrooms would have been expected to perform without Title VII services.

However, only twenty of the 38 school districts tested were able to offer control groups, and 83 percent of these control students spoke *only English* and another twelve percent were English dominant bilingual. This stands to reason, because if most of these children had been LESA they would (or should) have been receiving services to help them overcome the language barrier as required by Title VI of the Civil Rights Act and confirmed by the Supreme Court in *Lau*. However, this also meant that the credible estimate of how children would have performed without the bilingual program was based on the gains made by children who were overhwelmingly English monolingual.[319]

Conversely, only 26 percent of the Title VII participants were monolingual in English, although 47 percent were English dominant bilingual. However, 28 percent were Spanish dominant or monolingual in Spanish (compared to five percent of the control group).

In any event, according to the AIR Report, participation in an ESEA Title VII Spanish-English bilingual education project did not appear to produce gains in either English language arts or mathematics over and above what would have been expected had the students been assigned to a traditional classroom. Relative to national norms, Title VII students scored about the 30th percentile in mathematics but the 20th percentile in English. In fact, non-Title VII students in several grades made slightly greater gains in English, an effect attributed by the AIR reporters to the substantially greater amount of instruction time devoted to Spanish language arts in Title VII classrooms.[320] Naturally, this also caused the students in bilingual programs to learn more Spanish than their non-Title VII counterparts—the only positive effect in favor of bilingual education found by the AIR study. The study did not even find a measurable difference in students' attitudes toward school.

Most importantly, the fact that 72 percent of the children in the Title VII programs examined were found to be English proficient did not escape the AIR observers. The implications of this discovery were that nearly three-fourths of the Title VII students were not LESA and thus would have been just as well served by a standard (nonbilingual) curriculum.

This study was significant in that it was the only such research available on the effects of bilingual programs. It was likely to retain that distinction because to conduct a study comparing a bilingual program with a nonbilingual program using elementary school children would have placed the investigating district in potential violation of OCR's Lau Remedies, since the design of such a study would have necessitated that some children be deprived of the (equal educational) opportunity of participating in the bilingual program. As a result, the AIR study report remained a classic indictment of

bilingual education in the United States.

Several critical analyses of the results of the AIR Study were conducted by well-known and respected members of the bilingual education community. Among the most prominent were those by the director of the San Antonio-based Intercultural Development Research Association (IDRA), the directors of Bloomsbury West of San Francisco, staff from the Center for Applied Linguistics (CAL) of Arlington, VA, and the evaluator of the Individualized Bilingual Instruction (IBI) Program of the State of Washington. All institutions were nonprofit.

IDRA found no fewer than sixteen discrepancies in the identification of the target population, the selection of comparable control groups, test instruments used in the study, the amount of time between pre- and post-testing, lack of consistency in programs being studied, adequacy of instructional staff, and the source of funds being utilized. IDRA's director, José Cárdenas, charged that the study raised issues concerning (1) USOE's lack of commitment to bilingual education; (2) USOE's judgment in funding and publishing such a poorly-designed and implemented study; and (3) USOE's inadequate supervision of its Title VII bilingual education programs.[321]

Heidi Dulay and Marina Burt, directors of Bloomsbury West, pointed out that the AIR findings did not refer to Spanish dominant LESA students, but to English dominant and (in some cases) English monolingual groups. This was the case in 65 to 81 percent of the students, depending on the grade level.[322] The numbers of Spanish dominant and Spanish monolingual students were so small, in fact, as to preclude a statistically-significant comparison with students in non-Title VII programs. Thus, the AIR study did not provide information on the impact of bilingual education on truly LESA students—the ones who would stand to derive the most benefit from bilingual instruction.[323]

Tracy Gray and Beatriz Arias of CAL faulted the AIR study for its failure to distinguish between good and weak programs, the administration of standardized tests that did not measure what was actually taught, neglecting to test for comparability at the onset of the study, and depending on teachers' opinions to gauge students' language ability—especially when only half the teachers were found to be proficient in both English and Spanish by AIR's own measurements.[324]

An AIR-type evaluation should usually be reserved for a project that is developmentally well-defined, stable, and replicable. "Summative" evaluations should be postponed until projects have matured, although there may be subcomponents of a total program that have achieved sufficient maturity and should, therefore, be evaluated in terms of their effectiveness and applicability to other programs and school districts.[325] Bilingual education and all of its attendant subdisciplines had not reached sufficient maturity by the mid-seventies to have warranted a summative evaluation. However, under the political pressure for program accountability, a summative evaluation had to be prematurely applied.

CUMULATIVE EFFECTS

Beverly McConnell, evaluator of a Title VII migrant education program, suggested the AIR Study may not have met the standard evaluation requirements set by USOE. She urged those who would interpret the AIR Report to be mindful of the significant mismatch between the initial language competence of the treatment group and that of the comparison group, despite the fact that the original AIR evaluation design called for the *same* initial linguistic competence among the students of the two groups—a fact that was carefully omitted from the final AIR Report. Dr. McConnell invited comparison of the AIR findings with data generated by the nationally-validated evaluation study of the Individualized Bilingual Instruction (IBI) Program for Migrant Children, which was not one of the Title VII programs included in the AIR Report.[326]

The IBI data were based on a six-year study: 1974-79. Upon entering the program in 1974, the language dominance of the students was determined. Only those students whose primary language was Spanish were analyzed further, on the premise that non-English speaking children constituted the prime beneficiaries of the Bilingual Education Act. Test data for reading and math were divided into three biennial periods (1974-75, 1976-77, 1978-79).

The resulting data from the IBI evaluation and the AIR Impact Study were in sharp contrast. Title VII children in the IBI Study scored significantly higher at every age level than the comparison groups (of the same age and language dominance) on tests of English vocabulary and reading, and mathematics.

Relative to national norms for English, Title VII *Spanish dominant* students—across grades—were performing at the 9th percentile when they entered the bilingual program, at the 14th after half-year attendance, at the 18th after one year, the 30th after two years, and the 50th percentile after three years in the program. Relative to national norms for math, Title VII *Spanish dominant* students—across grades—were performing at the 14th percentile when they entered the program, at the 23rd after half-year attendance, at the 39th after one year, the 55th after two years, and the 70th percentile after three years in attendance.

After three years in the program all groups were scoring at the national norms in both reading and math. This indicated that the rate of development was faster for the Spanish dominant children, for they had started out much lower than the bilingual group.

IBI, incidentally, was funded by Title VII as a research and demonstration program model to serve a special target group—the children of migrant farm workers—presumed to represent the bottom of the socioeconomic ladder in the United States. In addition to their poverty, these children suffered linguistic barriers, discontinuities in their schooling, and a multiplicity of handicaps associated with their national origin, mobility, and social status. Thus, the IBI test results could not be readily attributed to selection of an "advantaged" class of children.[327]

The test scores also showed that the longer the students re-

mained in the program, the more significant the improvement in achievement. These results had triple implications: they confirmed the cumulative benefits of bilingual instruction, they demonstrated the value of longitudinal evaluation, and they underscored the importance of postponing summative evaluations until the program matured.

Bilingual education apparently had a long-term sleeper effect on student achievement. Thus, it was difficult to draw meaningful conclusions by comparing student achievement in the early grades. This also meant that transitional bilingual programs, lasting three years or less, could not be expected to yield optimum results. Some people pointed out that this was not unlike running a business, where it takes approximately ten years to show a profit. Short-term measurements of bilingual education were very likely to be misleading because (1) English instruction often started in "low gear" (and accelerated gradually), (2) it was often necessary to delay the introduction of reading in order to provide an oral base in the second language, and (3) dual language teaching followed different sequencing of academic matter.

The cumulative effects of bilingual instruction were also observed in other bilingual studies. They were evident, for example, in an evaluation of the Rock Point, AZ bilingual program for Navajo students, conducted by the Chinle Agency (BIA). It was found that, at the end of the second grade, students taught to read in Navajo and English showed an average level of achievement on the SAT two months higher than the average level of achievement in the Chinle Agency schools. These students also passed a Navajo reading comprehension test with 98 percent accuracy. At the end of the first grade, Navajo bilingual students were already working with second grade arithmetic materials.

Fourth and fifth grade students, who had been one and a half (grade level equivalent) years below national reading norms when the program was started during the 1971-72 school year, were only half a year below national norms by 1975 and were one and a half years higher than other BIA Navajo Area (control) schools. By 1976, test scores showed, fifth graders were one month below and sixth graders one month above the national norm.[328]

A longitudinal evaluation (1972-77) of Hispanic students in the Santa Fe, NM bilingual program (second through sixth grade) showed arithmetic superiority over the comparison group in virtually every respect. Although the bilingual group began slightly below the comparison group and the national norm, it had surpassed the comparison group by the third grade and exceeded the national norm by the fourth grade. The bilingual group was consistently above the comparison group each year and was close to the national norm by the fifth and sixth grades. The control group was superior in only one of fifteen statistically significant comparisons.

OTHER POSITIVE RESULTS

A review and analysis of evaluation and research findings of twelve studies conducted by local education agencies was performed by Rudolph C. Troike, an internationally-recognized sociolinguist and expert in bilingual education. These studies investigated the success of children in becoming proficient in English and learning basic skills appropriate to their grade level as a result of bilingual and nonbilingual instruction. Dr. Troike concluded:

> In most cases the students in the bilingual programs exceeded the achievement levels of control groups or district norms, and in several instances they exceeded national norms in English, reading, and math. The inference may fairly be drawn that in a quality bilingual program, by being able to learn through the medium of their native language and build a solid foundation in that language, students can attain higher education achievement levels in English without sacrificing their native language skills. In fact, loss of native language competence in an all-English program (whether ESL or regular school program) may be a major cause of students' incomplete English development and low academic achievement.[329]

The studies reviewed by Troike were of local individual programs—not aggregates of programs—and had been systematically analyzed to insure that no incorrect methodological problems could invalidate their findings.

Many people felt that comparing the performance of LESA students in bilingual programs to national norms failed to consider the fact that the "regular" classroom was not a viable option for LESA students. Considering the fact that statistics showed most inner city children achieving below national norms anyway, and considering the nonacademic problems these children had to endure (discrimination, low self-concept, poverty), even the slightest measure of success was no small miracle. In this light, achievement slightly below the norms could be considered a relative success compared to past patterns of virtually total failure. In any event, observers pointed out that schools do not discontinue teaching reading and math, for example, despite the fact that studies consistently showed that students are doing poorly in these subjects.

In spite of seemingly inconclusive research findings about bilingual instruction, funding for Title VII continued to increase each year. In school year 1977-78, it went up to $115 million to support 425 projects serving 259,400 students. More and more of the money was being channeled to help the children of the increasing number of political exiles arriving in the United States on a routine basis.

16 Educational Services Denied

COMING TO GRIPS with the educational needs of refugee children was only one of the problems associated with the children of aliens confronting American education in the late seventies. Another problem, particularly affecting the Southwest, involved the education of thousands of children—generally Mexican—whose families had entered the country without following the proper procedures established by immigration authorities.

UNDOCUMENTED WORKERS

Mexicans had been crossing the border illegally—back and forth—since 1963, when Congress terminated the bracero program through which U.S. farmers and ranchers had been able to contract for Mexican field workers. No one seemed particularly concerned with these workers during the liberal years of the sixties—except for sporadic, blitz-type raids, occasional deportations, or media reports. For one thing, these workers were part of an alternating flow, with fewer than ten percent remaining in the United States on a permanent basis. For another, these workers constituted a source of cheap labor that was helping the U.S. economy. Furthermore, the rhetoric of Chicano activism with its emphasis on brotherhood among *La Raza Unida* (the United People) made any attack upon Mexican nationals an attack against Mexican-Americans as well.

However, as the nation's liberal spirit waned in the seventies, the issue of illegal aliens began to build up steam. The crux of the controversy centered around the notions that undocumented workers constituted unfair competition because they would (1) take unskilled jobs that might otherwise go to U.S. workers, (2) accept lower wages, and (3) be less prone to unionization.[330] Other arguments contended that illegal aliens would strain social service programs designed for this nation's poor.

Advocates for the aliens countered that Mexicans did not enter the country looking for welfare or other social benefits. They came to work at jobs no one else seemed to want.

The notion that illegal aliens were a drain on the U.S. taxpayers was rebutted by a 1977 San Diego study which found that local undocumented workers had paid about $49 million in taxes while consuming only about $2 million in social services.[331]

The controversy moved from the labor arena to the educational

arena when school systems began to feel the economic hardships of educating nonresident children. As most educational disputes, it eventually landed in the legal arena. One case—which eventually reached the U.S. Supreme Court—centered around a 1975 Texas law preventing illegal alien children from attending public schools tuition-free and prohibiting school districts from counting these students when seeking enrollment-based state school funds.

In February 1977 parents of excluded children filed suit against the Houston Independent School District claiming that the exclusionary provision was unconstitutional. The State District Court disagreed and ruled in favor of the co-defendants, the Houston ISD and the Texas Education Agency.

Another suit, filed later in 1977 against the Tyler, TX School System, protested a $1,000 tuition imposed upon some eighteen undocumented Mexican children despite the fact that many of the parents had lived, worked, and paid taxes in the district for more than a decade. Because their income was so low, the demand for tuition meant the end of their children's education.

The filing of *Doe* v. *Plyler* triggered a new wave of litigation as sixteen other school systems around the State were challenged in court. In a ruling delivered the following year, the U.S. District Court for Eastern Texas struck down the State's exclusionary policy.[332]

Groups which found themselves unable to achieve their objectives through the ballot frequently turned to the courts and, under the conditions of modern government, litigation turned out to be the sole practicable avenue open to a disenfranchised minority to petition for redress of grievances.[333] The *Plyler* case was appealed to the Fifth Circuit Court, basically on the grounds that educating undocumented children free would pose a financial hardship upon school districts.

LAU REMEDIES CHALLENGED

The budget constraint was the basic premise for the denial of services, not only to illegals but to legal residents and citizens as well. This plea—insufficient funds—was especially used to explain why districts with substantial numbers of LESA children could not provide them bilingual instruction. Underlying this argument was the assumption that bilingual instruction cost more than the "regular" curriculum, an assumption that was not substantiated. Districts perceived a need to hire additional—instead of different—teachers.

Courts of law repeatedly rejected this defense and ordered public schools to reallocate available resources to provide immediate and adequate educational programs to previously-neglected children. In other words, when a district claimed that insufficient resources precluded instruction in a language that students could understand, that constituted grounds for a reordering of priorities. Items of less educational importance often had to yield to programs necessary to effectively meet the mandate of Title VI of the Civil

Rights Act of 1964. Failure to do so could have ultimately resulted in a cutoff of Federal assistance for noncompliance with *Lau*, which would have further reduced the local education budget.[334] Yet many districts took that risk, proving ultimately that lack of funds was not the issue, for some of them could have provided the services easily with the money they were spending on legal fees to avoid having to provide the services.

A New York Federal court granted the Lau Remedies great weight in *Ríos* v. *Read*[335] and in *Cintrón* v. *Brentwood Union Free School District*.[336] In *Ríos*, the parents of Puerto Rican and other Hispanic students in Patchogue-Medford, Long Island sued the school district in 1975 alleging a denial of an equal educational opportunity (in violation of *Lau*) by failing to provide an adequate and effective program for several hundred LESA students. The school district contended that the mere presence of a bilingual education program satisfied the *Lau* affirmative step requirement. The Court, however, reasoned that establishing a bilingual education program was "meaningless without a concomitant emphasis on the quality of instruction." The Court, relying on *Serna*, phrased its rationale this way:

> . . . it could hardly be argued that if a school district was found to violate the standards of *Lau* v. *Nichols* because it had failed to provide any bilingual education for language disadvantaged children, a court would be required to accept without scrutiny whatever remedial program the school district then proposes simply because the district now could claim that it was taking "affirmative steps."

The district was ordered to develop a plan for bilingual-bicultural education consistent with Federal law and the Lau guidelines.

A new landmark in bilingual education litigation appeared in the form of a Memorandum of Decision issued in January 1978 by the U.S. District Court for the Eastern District of New York in a case filed on behalf of Hispanic children and their parents from the Brentwood, Long Island School District. The opinion, issued in *Cintrón*, upheld the rights of Hispanic children to bilingual education programs. The District Court sustained plaintiffs' contention that the school district's part-time, pull-out program of English as a Second Language and remedial instruction failed to meet Federal standards for ensuring that LESA children receive an equal educational opportunity. The District Court ordered Brentwood to draw up a plan that would comply with Federal standards. In arriving at the decision, Chief Judge Jacob Mishler determined the bilingual education needs of children on the basis of the Lau guidelines issued by the HEW Office for Civil Rights. In essence, the court in this case treated the Lau Remedies in a manner comparable to the way the Supreme Court had treated the May 25, 1970 Memorandum.

In another *Lau*-type challenge, Mexican-American plantiffs charged in 1978 that the Raymondville Independent School District

in the Rio Grande Valley had failed to implement an adequate bilingual education program to overcome the linguistic barriers that impeded equal participation by their children in the schools' program. The U..S. District Court for Southern Texas ruled in *Castañeda* v. *Pickard* that the bilingual program provided by the school system was within what was expected by Title VI of the 1964 Civil Rights Act. That case was appealed by the Mexican-American plaintiffs.[337]

One common error made by many school systems was to believe they needed a "critical mass" of LESA students before they were compelled to provide them necessary services. While the *Lau* decision was rendered on the basis of a substantial group of students (and its subsequent remedies were not intended for cases involving a single child or very few youngsters) Title VI spoke of individual rights in providing that *no person* in Federally-assisted programs could be subjected to discrimination. Neither the fact that the number of LESA pupils was deemed "insignificant" by many schools nor the additional burden of having to provide what amounted to individualized instruction precluded a district from complying with the mandate. School districts had difficulty asserting that the Lau Remedies were unreasonable or inconsistent with Title VI, especially since program approaches were presented as options in the Remedies, bilingual education was not mandated, and alternative programs were acceptable.

Although never published in the *Federal Register* and never submitted for public comment, the Lau Remedies served as *de facto* guidelines for five years. In 1978, however, the court in *Northwest Arctic* v. *Califano* ordered a legal version of the Lau Remedies to be published for comment "as soon as practicable." Further delay in publishing the rules could have resulted in a "contempt of court" citation.[338]

17 Accountability

WITH PASSAGE IN 1978 of a bilingual education bill in Connecticut, a dozen states now had legislation *mandating* bilingual programs under varying guidelines: Massachusetts, Illinois, Texas, New Jersey, Alaska, Colorado, Washington, Wisconsin, California, Indiana, Michigan, and Connecticut. Other states had legislation *permitting* bilingual education. Among them were Maine, New Hampshire, New Mexico, New York, Arizona, Kansas, and Oregon. Several states still retained laws making English the exclusive language of instruction in their educational systems,[339] but these were, for the most part, states with very low concentrations of LESA students.

A study designed to respond to a Congressional mandate in the Bilingual Education Act—to count the number of children with limited English-speaking ability in the United States—revealed that an estimated 2.4 million children with limited English language proficiency aged 5-14 years were living in the U.S. in the spring of 1978.[340] This number represented 63 percent of all children aged 5-14 years living in households where a language other than English was spoken. In addition, it was estimated that there were as many as 1.2 million LESA children younger or older than 5-14 years but also of school age. Incidentally, the percentage of LESA children among all children living in households where a language other than English was spoken did not differ markedly by age. An estimated 73 percent of all LESA youngsters were Spanish-speaking and 62 percent lived in California, Texas, and New York.

A little over twelve million Hispanics were estimated to be living in the U.S. Mainland during the 1978-79 school year. Nearly half of them were under eighteen years old. Thirteen percent were under five years old, compared to seven percent of the non-Hispanic population. Only five percent of the Hispanics were 65 years or older, but eleven percent of the non-Hispanics had reached that age.

Hispanics were more likely to reside in metropolitan areas. Sixty percent of all Hispanics did, compared to 39 percent of non-Hispanics. Hispanic unemployment seemed to always average one and half times the national rate. At one time during the late 1970s when U.S. unemployment was seven percent, the Hispanic rate was ten percent. Eight percent of the nation's Hispanics were employed in the professional and technical labor force, compared with seventeen percent for non-Hispanics. Fifteen percent of the working people in the United States were employed as "operatives" (garage attendants, produce packers, manufacturing checkers), but 25 per-

cent of all Hispanics were thus employed. Naturally, the lower job classifications meant lower wages.

SCHOOL FINANCE

The vast majority of minority group children lived in the school districts that could least afford to provide for their special needs. Reliance on property values for local tax-based revenues caused funding disparities between wealthy and poor districts. These differences obviously led to inequities in staff, class size, course offerings, remedial services, facilities, materials, and equipment which, in turn, affected the schools' capabilities to provide equal educational opportunities. Thus the quality of education children received depended on where their parents could afford to live. It was up to the next level of government, then, to equalize school spending, so as to eliminate the discrepancies in educational services.

The way school funding was distributed by the states was tremendously important because state monies accounted for half of the nation's educational budget. Most state constitutions attempted to formulate the allocation of funding in such a way as to insure an equal educational opportunity to all youngsters. The language of these guarantees varied from state to state: some called for a "thorough and efficient" system of public instruction, others labeled it "thorough and uniform," some had an "equal yield" requirement. Regardless of the wording, the constitutional intention was certainly honorable. Its outcome, however, was something else, a fact that prompted some parents, with the assistance of civil rights lawyers, to challenge the school funding allocation formulas of their states.

School finance litigation had shifted from Federal to State courts in 1973, when the U.S. Supreme Court ruled in *San Antonio Independent School District* v. *Rodríguez* that wealth-based discrimination did not violate the equal protection clause of the Fourteenth Amendment. During the ten years following the successful 1973 challenge of New Jersey's system of school financing in *Robinson* v. *Cahill*, plaintiffs succeeded in striking down five school finance systems in state supreme courts on grounds of discrimination.

One of the most notable of these court rulings was the watershed *Serrano* v. *Priest* decision by the California Supreme Court in 1976, which said school funding based on local property wealth was illegal under the State Constitution's equal protection clause. Other states where their highest court had struck down the finance formula were Connecticut, Washington, Wyoming, and West Virginia. However, in that same period of time, school finance formulas were upheld in ten states: Arizona, Michigan, Idaho, Oregon, Ohio, Pennsylvania, Georgia, Colorado, New York, and Maryland.

In *Lujan* v. *Colorado State Board of Education*, filed by the Chicano Education Project, a district court had originally ruled against the State, but the decision was reversed by the Colorado Supreme Court. In Ohio, the court said "local control" provided a

rational basis to support the spending disparity.

Interestingly, the Georgia Supreme Court ruled that the State's school finance law was inequitable, but not unconstitutional. The Georgia Constitution, it turned out, required only that children be provided an "adequate"—not necessarily equal—education.

The uncertainty of financial support for compensatory and other equity programs owing to these alternate judicial interpretations of Federal and State constitutions was clearly exacerbated by the ongoing tug of war between the challenges of states' school finance formulas, on one side, and the voters' tax initiatives limiting school spending, on the other.

California voters in 1978 approved Proposition 13 to hold property taxes to one percent of the 1975-76 assessed value. At the time, California had a $6 billion State surplus, thus the impact of the loss of revenues would not be immediately apparent.

Following the success of Proposition 13, which slashed local property taxes by an average of 52 percent, other states initiated referenda that would have severely threatened education funding. Further encouraged by the California Supreme Court confirmation of Proposition 13 in 1980, tax initiative referenda appeared that year on the ballots of ten states. In 1982, sixteen states were voting on education-related initiatives.

Possessed by the prevailing political and economic climate, American citizens were consistently defeating school budgets and voting against taxes for education. These reductions, of course, necessitated the elimination of many programs—a measure that was proving fatal to many bilingual programs. Many state and local school agencies regarded bilingual education as a sort of "affirmative action" program. And just as the last hired were the first fired in fiscal crises, bilingual education—the newest project in the system, still on a "probationary" status—would be the first to be dropped from the budget.

THE EDUCATION AMENDMENTS OF 1978

Nationally, however, bilingual education had managed to survive its second re-authorization as a Federal program. The Education Amendments of 1978 not only extended the Bilingual Education Act, but expanded its coverage considerably.[341] By broadening the eligibility from children of "limited English-speaking ability" (LESA) to individuals with "limited English proficiency" (LEP), it no longer required children to be removed from bilingual programs prematurely (as soon as they were able to *speak* English even though they were unable to *function* in English). On the other hand, however, students would not be permitted to continue receiving bilingual instruction after they had developed English proficiency.

(In an effort to eliminate the somewhat pejorative connotation of the previous definition, *limited English-speaking ability*, both the National Association for Bilingual Education and the National Council of La Raza had sought unsuccessfully to have the label

changed to "children with linguistically-different skills.")

Although Congress did not fully embrace the *bicultural* concept suggested by the U.S. Commission on Civil Rights, it did continue support for the cultural heritage goal as well as for the use of the native tongue of LEP students in the programs. However, these two goals were carefully integrated with national priorities. Use of the native language, for example, was emphatically subordinated to the learning of English. Thus, bilingual education was defined as the teaching of English and (to the extent necessary to allow children to achieve competence in English) instruction in the native language of the students. Bilingual instruction was to be delivered with appreciation for the cultural heritage of not only LEP children, but other children in American society as well.

The Act directed the U.S. Commissioner of Education to give priority to geographical areas and to children that had been historically underserved. Specifically, it noted the potential need for bilingual instruction among Franco-Americans and Portuguese-Americans in New England as well as Spanish-speakers of Caribbean origin throughout the Northeast.

The 1978 amendments permitted the U.S. Office of Education to fund bilingual programs for Indians directly, instead of through the Secretary of the Interior. They also made special provisions to serve English dominant students who returned to Puerto Rico and could not function in the island's Spanish-medium schools. They emphasized equitable participation of private school children in the programs. And they provided for increased parental involvement.

Reflecting a concern of the Congress that a segregated minority group was being created by bilingual programs, the 1978 amendment specifically provided for up to forty percent English-speaking students in the classrooms as long as the primary purpose of the program remained to improve English language skills. This was a slight reduction from the fifty-fifty ratio used in Colorado which had worked rather well, according to Congressional testimony before enactment of the 1978 law. It was felt that the presence of these children would provide peer models to help LEP children in practicing their English and in interacting with U.S. culture, lifestyles, and values.

The law also prohibited massing all LEP students into an ethnically or racially-identifiable school. Although teacher training and curriculum development could be centralized, the program was to serve children in the school which they normally attended.

The bilingual set-aside funds of the Emergency School Aid Act, which provided assistance for LEP students in desegregation programs, were transferred to ESEA and their administration was placed in the Office of Bilingual Education. These funds provided assistance in curriculum development, teacher training, and interethnic understanding programs. They could also be used to assist school districts in meeting Lau Remedy court orders.

The 1978 Act removed the requirement that fifteen percent of each grant had to be spent on teacher training on the grounds that

districts' needs varied in this regard. However, it continued to emphasize the need for training and, in fact, made provisions for a wide range of separate training grants, contracts, and fellowships. Special attention was to be given to designing curriculum materials for language groups for whom private organizations were unlikely to develop such materials.

The Federal network established in FY 75 to develop and disseminate bilingual education materials expanded in the first three years to include twenty training resource centers (later called Bilingual Education Service Centers), nineteen materials development centers, and three assessment and dissemination centers.

The 1978 legislation permitted initial funding of one to three years and imposed very formal provisions for termination of programs. However, there was still an emphasis toward building the capacity of the applicants to continue bilingual education programs after Federal assistance was no longer available.

The issue of Title VII funding duration reflected more than a budgetary concern. It was consistent with a limited Federal commitment to bilingual education as a transitional research and development demonstration program. Open-ended grants would have suggested a broader Federal involvement, a service-oriented program, and a maintenance effort. In addition, the law provided for an Office of Bilingual Education and a National Advisory Council on Bilingual Education.

Responding to the lack of national evaluation data on bilingual education, Congress quadrupled to $20 million the amount of money available for research. Evaluation was also given strong support. An evaluation component was required in each grant application.

RESEARCH AND EVALUATION

Three of the most nagging criticisms of bilingual instruction involved the lack of real solid research to support it, the popularly-held view that bilingual education was intended only to benefit national origin minorities, and the endless challenges upon bilingual teacher competence.

Research was probably the most important factor. Although some $500 million had been invested in bilingual education over the preceding decade, only one-half percent of the money had gone for research. Consequently, there was virtually no research upon which to base efforts to improve bilingual programs, requiring the U.S. to base its bilingual effort on research conducted in Canada and other countries. This is not to say that there was zero research in the United States, but rather that the evidence to support bilingual instruction was not overwhelming. The concept required a great deal of patience and strong faith. Ironically, the research that had been conducted indicated that early study of a second language enhanced the educational achievement of middle-class students even more than it did for the economically disadvantaged.

The need for students to be able to understand the teacher was self-evident. Advocates of bilingual instruction held that its logic was too simple to require proof. It was, they argued throughout the seventies, like having to prove the obvious.

When asked to give a speech justifying the need for bilingual education, many bilingual educators would often give the speech in a language that the audience could not understand. How else, they would ask, would the audience *feel* the way children did when they had to sit in a classroom where they could not understand the teacher. The efforts to dramatize their message, however, backfired on some speakers, when part of their audiences would walk out annoyed. Then again, maybe the point was not lost. After all, LEP children did not have the luxury of being able to walk out of similar situations.

By the end of the seventies, however, intuitive and subjective appeals were no longer enough to support bilingual education. The demand for hard data and objective evidence was intensified. Unfortunately, the use of evaluation and research data in bilingual programs had been sporadic, at best; nonexistent, at worst.

The lack of empirical research to demostrate—in a scholarly (credible) fashion—the success of bilingual education as a pedagogical methodology had made the bilingual movement vulnerable to attacks by educational purists. A great deal of research conducted outside the bilingual arena had been, at best, inconclusive. The primary methodological shortcomings which were cited included the inadequacy or nonexistence of baseline data or comparison groups, statistical applications, and controls for socioeconomic status and language.

Typically, research findings—even those which were flawed—commanded a lot of public attention. They generated headlines, often misleading ones: "Bilingual Education Fails," "Private Schools Better," "Head Start Works," "Girls Can't Learn Math." Such headlines influenced public beliefs which, in turn, influenced action. Decisionmakers under pressure often tended to overcorrect and many good programs were dumped for lack of supportive data. In lieu of hard data related to academic performance, there were other indices of success: teachers were more receptive to the children, pupil attendance was better, students seemed to like school more. In addition, experience showed that where no bilingual programs existed Hispanic parents were less likely to approach the school and talk with teachers. Most bilingual program evaluations, however, focused on the acquisition of English by LEP children as the sole indicator of program success.

The 1979 graduating class of the Las Cruces, NM Public Schools included 53 students who had participated in bilingual education programs since 1967. According to the coordinator of the K-12 Bilingual (Spanish/English) Multicultural Demonstration Project, theirs was the "first and only" program in the nation to graduate students who had participated in bilingual education since kindergarten.

The bilingual education class of 1979 began in 1967 as one of the first such programs funded in the nation. The program served students at two elementary, two junior high, and two high schools. Of the bilingual program students graduated, 13 percent received recognition, scholarships, awards, or grants. One of the 53 was among the top ten of the 598 graduates of Las Cruces High School, and 35 percent of the bilingual education class had been accepted and were to attend New Mexico State University.

THE CARNEGIE REPORT

A 1979 statement issued by the New York-based Carnegie Corporation warned that "bilingual education's very vulnerability to criticism on political grounds makes it especially incumbent upon this experiment to justify itself educationally. Nothing less will do justice to the needs of children from linguistic minorities and to the meaning of equal educational opportunity," stated the report, adding that "this will be the major challenge of its supporters over the next few years." Written by the foundation president, Alan Pifer, the paper cited three primary issues causing the prevailing debate over bilingual education:

1. *The public perception that the program has not been effective.* Pifer warned against making generalizations at that time since "the few evaluation studies that have been done are not considered a fair assessment of bilingual education's potential." However, "indications are that many bilingual programs were launched hastily." Pifer attributed many of the difficulties associated with the program to "laxity in federal planning and supervision."

2. *The apparent departure from the customary language policy of the schools.* In the past non-English-speaking groups were free to keep their languages alive through private efforts, not usually through the schools, according to Pifer. Since World War I, English has been the primary if not sole instructional language in public education. Many people see bilingual education as a reversal of customary language policy and wonder what the implications are for other institutions and the society as a whole.

3. *The association of bilingual education with Hispanic Americans.* Although over seventy different language groups were being served by the Federal programs, most of the funds were going to Spanish-English bilingual instruction. Pifer noted "Hispanic children as a whole have not fared well in the public education system," and pinpointed discrimination as a major factor contributing to the academic difficulties of Hispanic students. "In short, the public education system as a whole has neither welcomed Hispanic children nor been willing to deal with their learning problems in any effective way." Bilingual education has been a rallying point for the Hispanic community. Also the rapid growth of the Hispanic population "has made the issue more visible and politicized than it might otherwise have been." Bilingual education no longer is regarded

strictly as an education measure, noted Pifer, but also as a strategy for realizing the social, political, and economic aspirations of Hispanic peoples. The Carnegie report concluded that "regardless of the current debate, the fact remains that there are millions of children in the U.S. schools who speak little or no English. Since neither quick submersion in regular classes nor ESL alone has worked well with children from low-income, non-English-speaking backgrounds," reasoned Pifer, "teaching such youngsters in their first language while they are learning English would appear to be a sensible alternative."[342]

THE YEAR OF THE CHILD

Nineteen seventy-nine was observed by more than a hundred nations—including the United States—as the International Year of the Child. One of the principles in the Declaration of the Rights of the Child, developed by the United Nations, endorsed bilingual education as one of the goals worth pursuing by the participating nations. The U.N. General Assembly called upon parents, individuals, organizations, local authorities, and national governments to recognize these rights and strive for their observance by legislative and other measures progressively taken in accordance with the declared principles. The seventh principle stated:

> The child is entitled to receive endowed bilingual education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education which will promote his general culture, and enable him on a basis of equal opportunity to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society.

It was hoped that a great deal of emphasis would be placed that year on the needs of the child, especially in education, and particularly in global education, multicultural studies, ethnic literacy, bilingual instruction, and the study of foreign languages and international affairs. These were some of the areas of sophistication that had been missing from most American schools.

18 Foreign Language Deficiencies

THE PURSUIT OF foreign language learning that had resulted from the sobering World War II experience had lasted no more than a score, despite the added spark provided by Sputnik I in 1957. All the publicity, subsequent spending, and academic competition that followed the first Soviet satellite lasted only until the image of American technological superiority was re-established by the landing of Americans on the moon.

Three pieces of legislation on foreign language use were enacted during the period between the orbiting of Sputnik and the visit to the moon. The Language Development Program of the 1958 National Defense Education Act, designed to encourage U.S. citizens to become proficient in foreign languages, had the biggest impact. However, it was funded at roughly the same level for ten years—with no adjustment for inflation. The same lack of inflation adjustment in the 1961 Fulbright-Hays exchange program was tantamount to a thirty percent decrease by 1978. And the 1966 International Education Act, highly acclaimed upon passage, was never funded.[343]

Interest in foreign languages began to decline again in the late sixties to the extent that, when Title VII ESEA was enacted in 1968, it did not attach any signficant value to having speakers of other languages retain their skills in those languages (the mother tongue of LEP students was to be used only until they became proficient in English)—unlike Title VI NDEA, which ten years earlier had encouraged Anglophones to learn a second language while retaining their skills in English. The wane continued.

In 1968, more than 600 U.S. colleges and universities offered courses in Russian to about 41,000 students. Ten years later, fewer than 500 institutions were providing Russian instruction to fewer than 27,000 students. (There were strong reasons to believe that the downward trend would continue, suggesting a dangerously condescending attitude toward the Soviet Union.) During that time, incidentally, there was an average of six dissertations a year on Soviet foreign policy by American graduate students with a working knowledge of the Russian language.

In Russia, where all students at the secondary level had to take a foreign language, the approach to American studies was systematic and thorough. In fact, there were more teachers of English in Russia than there were students of Russian in the U.S. The prestigious Institute of U.S.A. and Canada in Moscow also had an esti-

mated three hundred staff members doing research on the United States, which was more than all the combined total of Slavic faculty members at the dozen leading U.S. universities specializing in Soviet studies. Federal contracts for all foreign affairs research dropped from $40 million in 1967 to less than half of that in 1976. Détente with the U.S.S.R., a national preoccupation with Vietnam and the Middle East, and economic crises in higher education all contributed to the decline of Soviet studies in the United States. Not only was the nation's security at issue, but even its economic survival was threatened by Americans' lackadaisical attitude toward foreign languages and global affairs.

Ten years after passage of the Bilingual Education Act, an alarming apathy toward foreign languages and international affairs permeated throughout the United States. Only 22 percent of all high school students in the late seventies were enrolled in a foreign language and, frequently, the language was not the most prominent second language in the area. At one time, for example, the San Francisco school system was locked into the French/Latin syndrome, although there were significant concentrations of German, Spanish, Chinese, Italian, and Russian speakers in the area. An exception to this rather typical situation was found in the New York City school system, which taught Spanish, Italian, and Hebrew on a large scale.

The single most important cause for the widespread lack of interest was the abandonment of the foreign language requirements in many colleges and universities, motivated by student demands for a "relevant" curriculum. Fifteen percent of the total undergraduate college student body in 1968 had been enrolled in Spanish, French, German, Italian, or Russian—making these the five most commonly taught languages in the United States. By 1977, this proportion had dropped to eight percent. Twenty-three percent of the total high school enrollment was studying foreign languages: 12 percent was learning Spanish; 6 percent French; 2 percent German; 1 percent Latin; but only 0.3 percent Italian; and a meager 0.1 percent was studying Russian.

In any case, only two percent studied a foreign language beyond the second year, the minimum requirement for college admission, despite the fact that four years was considered a minimum requisite for usable language competence. For example, a 1978 nationwide search turned up only 81 high school students who were taking Polish beyond the second year, despite the newborn cultural awareness, quest for ancestral roots, and pride in ethnic identity.

PRESIDENT'S COMMISSION ON FOREIGN LANGUAGES

Part of the East-West international accords of Helsinki in 1975 committed the 35 signatories—including the United States—to the encouragement of the study of each other's languages and cultures as an important step toward expanding communications among

their people. A program of Citizen Education for Cultural Understanding was authorized by the U.S. Congress in 1976 because lawmakers agreed citizens needed to learn more about other nations and cultures to help them make better judgments about international policies and U.S. actions. Then in April 1978, at the urging of the Congressional panel formed to oversee the Helsinki agreement, the Carter administration established the President's Commission on Foreign Languages and International Studies, composed of 25 leaders from both the public and private sectors.

The Commission's investigation, carried out by the University of Michigan's Survey Research Center, revealed a number of attitudes toward other languages and cultures which posed serious risks for diplomatic relations, business viability, and national security. Although some of these statistics were already known in academic circles, the sense of great urgency that permeated the Commission's report in 1979 underscored their potential danger.[344] Reported the Commission:

> Americans' gross inadequacy in foreign language skills is nothing short of scandalous, and it is becoming worse. Historically, to be sure, America's continental position between vast oceans was a basic excuse for linguistic as well as political isolation, but rocketry as well as communications satellites render such a moat mentality obsolete. While the use of English as a major international language of business, diplomacy, and science should be welcomed as a tool for understanding across national boundaries, this cannot be safely considered a substitute for direct communications in the many areas and on the innumerable occasions when knowledge of English cannot be expected. The fact remains that the overwhelming majority of the world's population neither understands nor speaks English; and for most of those who learn English as a foreign language, it remains precisely that.
>
> Americans' scandalous incompetence in foreign languages also explains our dangerously inadequate understanding of world affairs. Our schools graduate a large majority of students whose knowledge and vision stops at the American shoreline, whose approach to international affairs is provincial, and whose heads have been filled with astonishing misinformation.
>
> The President's Commission believes that our lack of foreign language competence diminishes our capabilities in diplomacy, in foreign trade, and in citizen comprehension of the world in which we live and compete. Americans' unwillingness to learn foreign languages is often viewed by others, not without cause, as arrogance. The melting-pot tradition that denigrates immigrants' maintenance of their skill to speak their native tongue still lingers and this, unfortunately, causes linguistic minorities at home to be ignored as a potential asset. (While recommendations on the essentially domestic aspects of bilingualism are not within the Commission's assignment, we do emphasize that a comprehensive language policy ought to recognize this important national resource.)
>
> The United States is blessed with a largely untapped resource of talent in the form of racial and ethnic minorities who, by being

> brought into the mainstream of educational and employment opportunities in the areas of foreign language and international studies, can be expected to make rapid, new, and valuable contributions to America's capacity to deal persuasively and effectively with the world outside its borders. The Commission underscores its expectation that the importance of this asset will be taken into account in the implementing of all recommendations pertinent to this aspect of underutilized talent.

The Commission concluded that the Helsinki Pact gave educators in the United States the mandate and obligation to expand foreign language programs, especially at the elementary school level. It listed more than 130 recommendations, including a series of initiatives at various levels of the public and private sectors as well as governmental incentives to encourage foreign language study and promote knowledge of other countries through a variety of programs that would give Americans the opportunity to study and work abroad. It also called on the National Institute of Education to study how to enhance foreign language learning among elementary and secondary students.

In addition to their value as tools for business, defense, and research, foreign languages serve as a means of enriching everyday life; they open additional avenues to the enjoyment of the arts, drama, food, humor, legend, music, sports, traditions, and wisdom—especially wisdom. It was reported that studying foreign languages in the early grades enhanced many education skills and improved fluency in a child's native language. And foreign language students scored higher on achievement tests and college entrance examinations. Some educators were convinced that the oft-cited inability of young people to write coherently in English stemmed in part from a lack of formal training in a second language. Results of the Scholastic Aptitude Test and the American College Test confirmed that students who had foreign language training generally scored higher overall in tests of verbal ability in English. Most language courses included the study of the countries where the languages were spoken—their history, literature, and even their politics—thus, language students developed a vital international perspective that others lacked. Yet a 1980 State-by-State survey of high school diploma requirements revealed that only eight states required high schools to offer foreign language instruction, but none required students to take the courses.

The nation's failure to promote the acquisition of foreign languages within its Anglophone population was exceeded only by its reluctance to assist—even allow—its immigrants (as well as its native-born linguistic minorities) to retain and foster their own mother tongues while learning English as a second language. Generally, that type of dual-language capability—if to be attained—would have to be subsidized by the ethnic groups themselves. Some organizations were doing just that.

In 1978, the New York State Board of Regents granted a provisional charter to *Scuola D'Italia*, an experiment in bilingual-

bicultural education sponsored by the Italian government. Although it began initially as a school for the children of the Italian business and diplomatic communities, it became a somewhat broader effort "to build a new kind of culture that is at once Italian and American." The richness of the double heritage, participants felt, would keep their cultural and professional options open. By the end of its first year of operation, the *Scuola*, located in Greenwich Village, had grown to two dozen teachers and ten dozen students. Half of both the faculty and the student body were Italian nationals and half were Italian-Americans. The Italian teachers were paid by the Italian government.

The Ukrainian Congress Committee of America protested the inadequate attention being paid to the study of Eastern Europe in general and, more specifically, the defective curriculum materials on the USSR. The UCCA correctly pointed out that while it was true that Western Europe had played a major role in America's past, Eastern Europe and the USSR were playing important roles in the nation's present and could very well play key roles in the determination of its future. Concurrent with the group's request for a modified social studies, world history, and multicultural curriculum, was a formal request to the New Jersey Department of Education for State accreditation of Saturday schools designed to compensate for those areas seen lacking in the public schools. Although accreditation of the Saturday schools was not approved, an attempt was being made in the early eighties to offer their students school credit through Thomas Edison College, a New Jersey college (without a campus) which granted academic credits for nontraditional learning experiences.

There were more than fifteen French schools in the United States. Five were located in the San Francisco area, one was in Detroit; all followed French programs determined by the French Ministry of Education. Many had bilingual curricula, and produced youngsters who were bilingual-bicultural and who could continue their studies in either language or either country. In addition, there were several Hispanic institutions of higher education, including De Hostos Community College, Boricua College, and the Hispanic University.

It would be unrealistic to pretend that all lingustic and ethnic minorities wished to retain their language, family name, or other manifestations of their national origin or ethnicity. Some, in fact, spurned their ethnic and cultural identity—for a variety of reasons. It is no secret that in the midst of both affirmative action and desegregation efforts by the Federal government, many Hispanics spurned the classification of "minority"—or even "Hispanic."

One such example was the case of Jorge Ribas, a Department of Defense employee, who felt insulted by the Federal policy that arbitrarily labeled him Hispanic. Claiming that his ethnicity had nothing to do with his ability to get a job, Mr. Ribas requested to be reclassified as White. In denying his request, the Office of Personnel Management (formerly, the Civil Rights Commission) insisted

that members of minority groups had no choice but to be identified as "minority" in their Federal personnel files.

Yet it would be rather simplistic to divide the population of the United States into two distinct groups: one valuing pluralism and regarding bilingualism as an asset; the other perceiving bilingualism as a threat to national harmony and rejecting its own cultural heritage as a liability. It is probably more accurate to say that the bulk of American society was conspicuously apathetic toward all foreign languages and toward any deviation from the dominant culture.

Educators were not wholly to blame for their students' lack of interest in foreign languages; part of the onus for Americans' neglect of languages lay at the door of business and government for failing to use trained linguists and set high enough standards for their employees. Trained linguists could not find jobs in the U.S. because business and government employers apparently discounted the value of their training. Even many foreign correspondents for major news services did not know the language of the country they were covering. Only two thirds of the 1,222 "language-designated" positions in the U.S. State Department were adequately filled. The Defense Department estimated only 314 of 488,000 employees stationed overseas had command of the language of the country in which they were serving. Although most foreign service officials in Iran during the late seventies spoke the native Farsi, many military and economic personnel did not know the language. Only nine of the sixty Americans in the U.S. embassy in Iran knew Persian. This lack of language skills kept the American diplomatic corps from knowing what was going on when the Iranians were taking American hostages in November 1979.

Responding to the Commission's recommendations, the U.S. House of Representatives in 1980 called on schools, colleges, and universities to strengthen foreign language studies. The resolution stated it was the sense of Congress that foreign language studies needed to be improved through "appropriate actions" such as the establishment of foreign language study requirements for entrance to and graduation from colleges, more foreign language programs in secondary schools, and greater emphasis on the teaching of foreign languages and cultures to elementary school children.

Researchers were also finding that the language decline may have been leveling off and that an upward trend was likely in the early eighties. They had discovered that, in retrospect, most people had a sense of regret—often bordering on apology—for not having learned another language. More than half of the respondents wished they could speak a second language.

- More than three-quarters believed that foreign languages should be *offered* in elementary schools, but forty percent believed that study of a foreign language should be *required* at the elementary level.
- More than 93 percent thought that foreign languages should be

offered in the junior and senior high schools. Approximately 47 percent felt that learning a foreign language should be *required* in junior or senior high schools.

- Of parents whose children were sixteen or younger, 84 percent said they had encouraged their children to study a second language and 73 percent expected their children to have an opportunity to use a foreign language outside the classroom.
- About 45 percent said they would like to study a foreign language in the future.
- More Americans—seventeen percent of the total—were familiar with Spanish than with any other foreign language. Other percentages were: French, thirteen percent; German, eleven percent; Latin, four percent; and Italian, three percent.

LINGUISTIC CHAUVINISM

The single-language mind-set permeating the United States citizenry had been seldom viewed as a problem; monolingualism was simply an American way of life. It was not that Americans could not learn and use other languages; it was that they felt they did not need to do so. Not only were most Americans adamant about learning other languages, many even took offense at having foreign languages spoken in their presence or in their domains: homes, schools, places of employment, and other institutions—even the military.

An employee who was forbidden from speaking Spanish on the job sought court protection for what he considered to be a violation of Title VII of the Civil Rights Act. The Fifth Circuit Court of Appeals, while noting that the English-only rule was arbitrary and not related to a genuine business need, also noted that there were no regulations dealing with these type of rules by employers. It held that the plaintiff (who spoke English and Spanish) failed to prove that Spanish was his primary language, and therefore had not been the subject of discrimination on the basis of national origin. The Appeals Court concluded, "Neither the statute nor common understanding equates national origin with the language that one chooses to speak." But the court was also careful to limit the extent of its holding:

> Our opinion does not impress a judicial imprimatur on all employment rules that require an employe to use or forbid him from using a language spoken by him at home or by his forebears. We hold only that an employer's rule forbidding a bilingual employee to speak anything but English in public areas while on the job is not discrimination based on national origin as applied to a person who is fully capable of speaking English and chooses not to do so in deliberate disregard of his employer's rule.[145]

This decision prompted the Equal Employment Opportunity Commission to revise its guidelines pertaining to national origin discrimination. The amendments clarified the rights of bilingual persons to speak a language other than English at their workplace,

and barred harassment—such as ethnic slurs—on the job.

Essentially the EEOC held that requiring employees to speak only English on the job would be considered discriminatory unless the employer could justify the rule as a business necessity, in which case these circumstances and the consequences for violation of the rule would have to be explained to the employees. The EEOC noted that it was not uncommon for persons who spoke more than one language to inadvertently slip into their native tongue—an often inalienable characteristic (as race) from which an individual could not be separated.

Other places of employment with English-only rules included some units in the Armed Forces. Lt. Col. William Landgraf, commander of the First Battalion of the Fourth Infantry—stationed in West Germany—forbade Hispanic soldiers from speaking Spanish to each other while on duty.[346] Reacting to news of Col. Landgraf's order, Dr. Eugene Marin, a civilian Federal employee in Washington, reminded Landgraf that fifteen percent of all U.S. Congressional Medal of Honor winners had been Hispanics, and asked rhetorically if anyone knew whether they had uttered their last prayers in Spanish or English as they gave their lives in the ultimate sacrifice for their country.

Events occurring during the hostage crisis that began in 1979 in Iran placed the English-only issue in a rather sober perspective. After Marine Sgt. Jimmy López had courageously helped fifteen other Americans escape from the embassy, it was discovered that he had written on his jail wall—in Spanish—*Viva la Roja, Blanca, y Azul* (Long Live the Red, White and Blue).

Negative linguistic attitudes in the United States were not limited to foreign languages. They were held also against certain variants of standard English. For reasons that could only be attributed to notions of pedigree, northern accents were not only accepted but admired. Many considered a New England accent, for example, to have a Continental ring, a sound close to the king's English, a sign of intellect. Southern dialects, on the other hand, were often described in contemptuous terms. "Black English" was usually regarded as a sign of complete illiteracy—and totally unacceptable.

"BLACK ENGLISH"

In 1979 U.S. District Judge Charles Joiner ordered the Ann Arbor, MI school district to develop a one-year plan for training teachers in the Martin Luther King Elementary School to teach standard English to children who spoke Black English. The judge found that eleven children who spoke Black English may have been denied an equal educational opportunity because the dialect used by Blacks in their homes and community would be a barrier to learning standard English unless students were given special help. Ruling on a suit filed in 1977, Judge Joiner relied on the Equal Educational Opportunities Act of 1974, which prohibited the denial

of equal educational opportunities on account of race and "the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs." In issuing his decision, Joiner said:

> The language of Black English has been shown to be a distinct, definable version of English, different from the standard English of the school and the general world of communications. It has defin te language patterns, syntax, grammar and history. The plaintiff children do speak at home and in their local community a language that is not itself a language barrier. It is not a barrier to understanding in the classroom. It becomes a language barrier when teachers do not take it into account in teaching standard English.
>
> This case is not an effort on the part of the plaintiffs to require that they be taught Black English or that their instruction throughout their schooling be in Black English, or that a dual language program be provided ... It is a straightforward effort to require the court to intervene on the children's behalf to require the defendant school district board to take appropriate action to teach them to read in the standard English of the school, the commercial world, the arts, science and professions.[347]

The ability to change speech patterns in the context of a group is sophisticated but common. Most people, especially professionals such as physicians, lawyers, teachers, or engineers, use jargon in their work that they drop in social contexts. In fact, many people considered "code-switching" to be a unique social skill, since most switchers were readily able to confine themselves to one code at a time and shift into another when circumstances required it. Some linguists referred to this phenomenon as "diglossia." A few people, however, did have some problems discerning between the two codes, a predicament that created such hybrids as "Spanglish," "Finglish," and "Ebonics."

There were a number of methods available for teaching students who spoke Black English to read standard English. One of the most successful methods had been the "bridge" system. It used stories from the Black oral tradition written in the Black vernacular and moved gradually into standard English, thereby teaching children to switch from Black to standard English. The system was used in Chicago several years ago with success—some children advanced two years in reading development in one semester—but it was abandoned after critics charged the schools were teaching Black English.

There was also thought of using Federal bilingual education funds to aid students who used Black English, just as they were used for Chinese or Hispanic children. Many Civil Rights experts felt this was justified by law, which required states to take action to overcome whatever language barrier prevented equal educational opportunity.[348]

The Ann Arbor School Board reported a year after Judge Joiner's order that utilizing Black English to teach standard English

may have improved elementary school attendance of Black students in the city's school system. While it could not be determined yet if the program had accomplished its main purpose—improving reading ability—it was obvious that a teacher's attitude toward the use of the children's vernacular could be critical in helping them build self-esteem and motivation.

19 Need For Bilingual Instruction Increases

THE REFUSAL of many school systems to recognize legitimate barriers to academic achievement (attributing the failure instead to innate lack of intelligence or inbred contempt for schools) had become a serious equity concern, especially because most states were mandating competency testing as a requirement for high school graduation. Early in 1979 the Executive Committee of TESOL (Teachers of English to Speakers of Other Languages) approved a "Statement of Statewide Programs of Competency Testing" which was developed by TESOL's Committee on Sociopolitical Concerns of Minority Groups. Recognizing that two-thirds of the states had mandated programs of competency testing in the basic skills, the Committee stressed the following points:

- Translating existing tests from one language to another does not result in a reliable instrument.
- Tests developed for or normed on native speakers of a language are not valid or reliable indicators of the language, knowledge, or skills of a person who is not a native speaker of that language.
- Tests of proficiency in the modern foreign languages designed for English-speaking students in the U.S. are scaled inappropriately to measure the talents and knowledge of students who are native speakers of those languages.

A similar statement, approved at the Seventh International Conference of the National Association for Bilingual Education (NABE), concluded that, "because most widely-used tests are standardized on native (English) speakers, it is inappropriate to use these tests with non-native (English) speakers."

In the Florida case of *Debra P.* v. *Turlington*, a U.S. district judge ruled in 1979 that the Florida education department could not make a statewide functional literacy test a requirement for high school graduation for the following four years, until all students who had experienced segregated education in early grades had graduated from high school. In a 54-page ruling on the first Federal court challenge to competency testing, trial Judge George Carr held that while the Florida test was not racially or culturally discriminatory in and of itself, minority students showed a disproportionately high failure rate because they had attended segregated schools during their first three years of education. Florida's chief school officer Ralph Turlington pointed out that Judge Carr's ruling, intended to

help students who suffered discrimination in Florida schools, raised questions concerning the treatment of students who attended segregated schools in another state or suffered some other disadvantage not attributable to Florida practices. He asked whether the next wave of newcomers to Florida—Vietnamese, Cambodian, Cuban, and Haitian students—were to be exempted from the requirement (that they earn their high school diplomas by demonstrating minimum skills).[349]

HAITIANS AND OTHER "BOAT PEOPLE"

Haitian refugees had been seeking asylum in the United States as long as Cubans. In the twenty years between the early sixties and the early eighties, some forty thousand Haitians had flocked to the shores of South Florida fleeing from the repressive Duvalier regime—most of them illegally. The surge of emigration toward the United States accelerated in 1978 when the Bahamas, long a magnet for Haitians, decided to expel all who had entered illegally. However, the official policy of the United States held that Haitians were leaving their homeland because of the devastating conditions of poverty plaguing their country—and not to escape death, torture, or persecution. In addition, U.S. authorities insisted, these exiles were fleeing a pro-American government and their applications for asylum were "frivolous." In fact, the U.S. Coast Guard took to intercepting boats at sea and, in 1978, the Immigration and Naturalization Service (INS) established a program to expedite wholesale deportation of Haitian nationals (sometimes after mass, closed-door hearings from which even lawyers and the press were barred). While Red Cross and American Embassy officials were meeting deported Haitians at the airport in Haiti to deter official reprisals against them, most Haitians found this a meaningless gesture because retaliation seldom began immediately upon their return. The Haitian government, they said, would usually wait a few days before picking up returnees and abusing them.

The admission criteria were different for clearly political refugees from Cuba, the Soviet Union, and indochina who were escaping from Communist regimes. Thus, in 1979, the number of Indochinese refugee children living in the United States increased 66 percent, bringing the national total to nearly 100,000. Sharp increases reported in the last half of 1979 were the result of President Carter's announcement that the U.S. would double its monthly admission of Indochinese refugees from seven to fourteen thousand.

School districts throughout the United States—especially in port cities—geared up to help these children. San Francisco, for example, established a series of transitional programs—the Newcomers Center in the Pacific Heights district, for one—to serve uprooted youngsters who were arriving at the rate of a dozen or so each day from places such as Burma, Iran, and Laos.

More than sixty percent of Indochinese refugee children were eligible for Federal aid under the Indochinese Refugee Children

Assistance Act of 1976, but it had not been funded for the preceding two years. However, an emergency Senate appropriation of $18 million was approved to assist these children in Fiscal 1980.

Experience with refugee children had indicated that (1) the lack of proficiency in English was their greatest barrier to a successful transition into the mainstream of American life; (2) their special educational needs lessened over time; and (3) older children (in secondary schools) seemed to require longer, more intensive training to become proficient in English than younger children (in elementary schools). This experience led to promulgation of the Transition Program for Refugee Children[350] under the authority of the Refugee Act of 1980.[351]

The program provided assistance—primarily in the form of English language instruction—to help refugee children make the transition into American society. Noncompetitive formula grants, based on the number of eligible children, were available to states that met the requirements of the Refugee Resettlement Program.[352] Subgrants could be used for bilingual education.

However, an unanticipated wave of refugees from the Mariel Bay area in Cuba swept upon the shores of southern Florida in 1980 after President Carter, pledging that the U.S. would "provide an open heart and open arms," offered a haven to the thousands of people seeking to leave an unbearable situation. The ensuing "freedom flotillas" brought 118,000 Cubans (13,000 of school age) to the United States between April and July 1980—after the 1980 Census had been completed.

The President's decision to permit the sealift came on top of earlier resettlements of 350,000 Asian refugees and at a time when Haitian boat people were arriving at the rate of one thousand per month. At the same time of the Mariel exodus, it was estimated that forty thousand Haitians had navigated the seven hundred miles separating their country from the U.S. and pleaded for asylum here—although fewer Haitians were of school age. The combined post-census Cuban/Haitian influx brought nearly 16,500 children to Florida between April and September 1980. It was widely rumored that one-fourth of the Cuban entrants were convicted criminals, mental patients, and societal misfits included by Fidel Castro as part of a ploy to relieve overcrowded jails, hospitals, and other penal and rehabilitation institutions on the island (not unlike what England had done during the eighteenth century).

Most of these entrants went straight to camps or detention centers, the best-known of which was the Krome Avenue North Detention Center just outside Miami. Not only was the uncertainty about their future delaying the education of these children, but the cultural discontinuity, added to overcrowded conditions at the detention centers, had to undoubtedly inflict serious psychological damage upon most of these youngsters. Conditions in these camps prompted the Inter-American Commission on Human Rights (a component of the Organization of American States) to examine camps in Florida and Puerto Rico for possible violations of human

rights—the first time the Commission felt the need to conduct such an investigation in American territory. Yet, as hard as conditions may have been in the detention centers, the situation was much worse for the Haitians who were being deported by the INS, a practice consistently questioned by some Americans; for no similar program had ever been established for any other group of exiles—including the Cubans.

Plaintiffs representing the cause of five thousand Haitians filed a suit charging violation of due process and large scale discrimination based upon national origin. Testimony presented in the case, and accepted by the court, depicted a stark, brutal, and bloody picture of life in Haiti. Haitians claimed that, if deported, they would face arrest, torture and, possibly, death. Even if not arrested, they said, they would be subjected to nightly harassment by the *Tonton Macoutes* (the government's security force) and other inhuman abuse. Although it had been rumored that Duvalier had disbanded the *Tonton Macoutes* in 1977, Haitian exiles alleged that the dictator had simply changed the name of the notorious guard to Volunteers for National Security. Its tactics had been somewhat tempered by international denouncements but its sinister goals remained unaltered.

The ruling of the U.S. District Court for the Southern District of Florida, in *Haitian Refugee Center* v. *Civiletti*, was not only a victory for thousands of Haitian refugees, but it also constituted a serious indictment of the political corruption in Haiti as well as a censure on U.S. immigration and foreign policies. In June 1980 U.S. District Judge James King ordered the INS to cease its arbitrary repeal of Haitian refugees and to reprocess in a lawful manner all asylum claims of the individuals represented in the suit. The judge also agreed that the Haitian exodus was politically-induced because, he reasoned, Haiti's poverty was a function of that country's political system, for it was the result of Duvalier's efforts to maintain power. Judge King found that the INS' policy of summarily denying refuge to Haitians regardless of merit was "offensive to every notion of constitutional due process and equal protection" and that it demonstrated "a profound ignorance—if not international disregard—of the conditions in Haiti."[353] It called into question the morality of U.S. aid to Haiti, which Haitian exiles said helped to keep a corrupt government in power.[354] The ruling also concluded that the underlying reason for their discriminatory treatment may have been the fact that the plaintiffs were part of the first substantial influx of Black refugees from a repressive regime.

By October 1980 more than 120,000 Cuban and thirteen thousand Haitian entrants had been processed and released from camps or detention centers. Dade County absorbed eighteen thousand refugee students during the 1980-81 school year. Most of them were from Cuba and Haiti; others were from Nicaragua, Indochina, Russia, and other non-English-speaking countries. Few of the refugee students were proficient in English. Secondary migrations were expected as changing Federal policy induced recent en-

trants to leave states with low-level general income assistance programs, such as Florida, and spread out to other states. Although three-fourths of the expatriates remained in Florida, the second largest group—more than eight thousand—resettled in New Jersey.

The vast majority of these new Caribbean entrants—both Cubans and Haitians—were not considered "refugees" because they had not followed formal procedures seeking asylum. They had simply escaped and landed here unexpectedly or, in most cases, had been picked up by the U.S. Coast Guard and taken into custody. Because of the "illegal" circumstances of their arrival, they were—under existing policies—ineligible for assistance from the Refugee Act. Instead, the United States granted a six-month "parole" period during which the Cubans and Haitians had to apply for asylum or refugee status.

The U.S. Department of Education felt that amending the Refugee Act to define all entering Cubans and Haitians as refugees would result in unfair, inequitable treatment for the hundreds of thousands of Soviet and Eastern European people awaiting family reunification. The administration opted for drafting separate legislation to provide aid to the Caribbean immigrants while preserving the intent of the Refugee Act. The Refugee Education Assistance Act of 1980,[455] a formula grant program signed by President Carter near the end of the year, was intended to help other Cubans and Haitians who were not eligible for refugee aid. The President also issued an executive order instructing the Census Bureau to provide refugee population estimates to Federal agencies responsible for the distribution of formula grants.

CHILDREN OF ILLEGAL ALIENS

The question of whether the entrants were labeled "refugees" or not only determined the eligibility of educational agencies to receive governmental assistance with the expenses of educating these newcomers. It had little to do, it turned out, with the responsibilities of impacted LEAs for educating these alien children. The nation's courts, in fact, were affirming the rights of even undocumented entrants to a free education in the United States.

Although the 1978 lower court victory in the *Doe* case had applied only to Tyler, TX, a Houston Federal district judge in mid-1980 found a similar Fourteenth Amendment right for the children in seventeen consolidated lawsuits entitled *In Re: Alien Children Education Litigation.* In that ruling, U.S. District Judge Woodrow Seals for the Southern District of Texas said the Fourteenth Amendment equal protection clause guaranteed access to education to all "persons," because it is a fundamental Constitutional right. He ordered an injunction against implementation of the Texas school law.

Texas immediately appealed to the Fifth Circuit, citing financial harm. The State estimated more than 100,000 new pupils would have to be educated free. Attorneys for the children said the estimate

was exaggerated, suggesting it should have been closer to twenty thousand—a little over half of one percent.

Various studies reported that most undocumented workers were childless. A private study of apprehended aliens found that fewer than four percent of them had children in U.S. schools while seven percent of all visa abusers had children enrolled.[356] (Most attempts to gather data for this population were severely hampered by its underground and secretive nature—understandably.)

The State of Texas argued that educational officials were in a better position to count these children than well-meaning outsiders who did not have access to school records and were not involved in the day-to-day operation of the schools. In any event, at the petition of the State, the District Court's injunction was blocked by a three-judge circuit panel, pending the outcome of the appeal. However, U.S. Supreme Court Justice Lewis Powell vacated the stay, concluding that "the balance of harm weighs heavily on the side of the children." Powell did invite local school systems with large numbers of alien children or "exceptionally limited resources" to seek stays of the education mandate, but later denied a stay sought by the Brownsville schools. The Fifth Circuit was asked to consolidate *Plyler* for reargument with the seventeen *In Re: Alien Children* cases that awaited litigation at that appeals court.

The appeal papers turned to a theme repeated in court decisions on illegal aliens: that equal protection of resident aliens was quite a different matter when applied to those illegally entering the country. The Texas challengers contended "case after case stands for the proposition that the lawful entry requirement in the immigration area is necessary if any rights other than due process are to apply." The brief invoked a series of High Court rulings that had established nonresident aliens had no constitutional right to enter the country. The challengers also pointed to a 1975 Second U.S. Circuit Court of Appeals ruling which said giving illegal aliens rights (due to their unlawful presence) greater than those they would have had if they had not come to this country, would be the worst sort of bootstrapping and would encourage aliens to enter this country surreptitiously. If they were here unlawfully, they were not constitutionally entitled to be here, let alone be educated at public expense, said the joint appeal.

Also, their court papers argued, the Fourteenth Amendment forbade states from denying equal protection to "any person within its jurisdiction," but illegal aliens (who were subject to Federal immigration supervision and regulations) were not within the jurisdiction of states since it would have been a violation of the Constitution's supremacy clause if the State had begun deporting illegal aliens.

The State of Texas, an intervenor in the case, had joined the Tyler school system in arguing it would save money, allow more spending for legal aliens, help prevent the spread of disease, discourage illegal immigration, and avoid State spending on aliens who would be deported anyway. State authorities found it incom-

prehensible that the Federal government could deny social security, welfare benefits, and other human services to illegal aliens, for example, but Texas had to educate their children for free. In contrast, the Fifth Circuit said that the very extension of due process rights to illegal aliens by courts since the nineteenth century indicated that the companion equal protection clause also was meant to cover them.

The Circuit Court, in fact, broke new legal ground by holding undocumented alien children had the right to attend public schools in Texas. The Fifth Circuit did agree that illegal aliens were not entitled to public education as a fundamental constitutional right because the U.S. Supreme Court had held education was not a basic right in its 1973 decision in *San Antonio Independent School District* v. *Rodriguez*. But a footnote in that decision had left open the question whether an "absolute deprivation" of schooling would be unconstitutional.

The three-member appeals panel unanimously ruled that alien children had a Fourteenth Amendment equal protection right to free schooling regardless of their immigration status. Judge Frank Johnson wrote for the unanimous court, "We think that aliens illegally within this country are clearly *persons* within the simple language of the Fourteenth Amendment that *no person* can be denied equal protection under state or federal law." (Emphasis added.)

Not only were aliens who brought their children a small portion of illegal alien immigrants, Judge Johnson pointed out, but the State had "declined to ... prohibit employers from hiring illegal aliens," a measure that would most likely have reduced illegal immigration. The refusal to ban illegal alien employment "casts serious doubts on its exclusionary motive."

The U.S. Department of Justice had acted as a friend of the court in *Plyler*, and a plaintiff intervenor in the *In Re* case. In the *amicus* brief to the Fifth U.S. Circuit Court of Appeals in *Plyler*, the Department of Justice said the State's law "takes one of the most legally suspect routes possible. It penalizes children, depriving them of a critically important social benefit." And the Department told the Fifth Circuit in the *In Re* case that its *Plyler* ruling (that the Texas law violated the Fourteenth Amendment) should be extended statewide. The Fifth Circuit did just that by becoming the first appeals court to accord such a constitutional protection to alien children, affirming the September 1978 Federal district court ruling for the children in *Doe* v. *Plyler*.

Another case involving a U.S. citizen born of illegal aliens—bearing serious implications for this issue—was decided by another court. In June 1980 the Ninth Circuit Court ordered the Immigration and Naturalization Service to re-examine its decision to deport a couple who claimed their children's right to an education entitled the family to stay in the United States. The two children had been born to Jong Ha Wang and Kyung Hwa Wang after the Wangs came to the U.S. in 1970 on a six-month visa.

Under the Immigration and Naturalization Act of 1952, the

Attorney General had the authority to suspend deportation of applicants who had been in the U.S. for seven years, possessed good moral character, and whose deportation would cause extreme hardships to the aliens or their immediate family. The court noted the Wang children were both U.S. citizens who had spent their entire lives in this country and did not speak Korean.

INS and a dissenting judge, however, urged overthrow of the decision fearing that by using the court's opinion as a blueprint, any foreign visitors who had "fertility, money, and the ability to stay out of trouble with police for seven years" could change their status from that of tourists or students to permanent residents without the inconvenience of immigration quotas.[357] The decision was reversed the following year, incidentally, because the Wangs failed to produce sufficient evidence of potential harm amounting to extreme hardship.

OTHER NEEDY LANGUAGE MINORITIES

The rate of Pacific immigration to the U.S. had tripled in ten years. Whereas only thirteen percent of the immigrants coming to the United States during the 1960s were Asian, 35 percent of all immigration to this country was coming from Asia during the seventies. California had the highest Asian population in the United States.

The 1980 Census reported more than three and a half million Asians and Pacific Islanders in the United States. Nearly 36 percent of them lived in California. Another 17 percent lived in Hawaii. Other states with significant Asian/Pacific Islander populations included:

New York	311,000	Virginia	66,000
Illinois	160,000	Pennsylvania	64,000
Texas	120,000	Maryland	64,000
New Jersey	104,000	Florida	57,000
Washington	103,000	Michigan	57,000

The remaining 38 states and the District of Columbia had fewer than 50,000 each. The smallest concentration—1,400—was in Vermont. San Francisco was 22 percent Asian, San José was 8 percent, Los Angeles 7 percent, and San Diego 6 percent. New York and Boston were 3 percent each, and Chicago and Houston were 2 percent each.

These 1980 findings were not comparable with the 1970 Census count for many reasons, including faulty census techniques as well as the fact that Asian Indians had been classified as "White" in 1970. According to the 1980 Census, there were 1.4 million American Indians, Eskimos—or *Inuit* (The People), as they prefer to call themselves—and Aleuts in the U.S. Demographers did not believe this figure meant that the Indian population had doubled since 1970, when 600,000 were reported living in the U.S. Rather, they suggested part of the increase had resulted from improvements in

census-taking techniques and more willingness on the part of respondents to identify as Indians.

California had the largest number, more than 200,000; Oklahoma was next, with nearly 170,000; Arizona had more than 150,000; and New Mexico was home to more than 100,000. Two-thirds of the American Indians, Eskimos, and Aleuts lived in ten states. Besides the four just mentioned, the others with more than 40,000 were North Carolina, Alaska, Washington, South Dakota, Texas, and Michigan. The Bureau of Indian Affairs was operating some two hundred elementary and secondary schools for Indian children and partially supporting schools run by tribes as well as public schools servicing Indian youngsters.

Early in the 1980-81 school year, nine schools serving Crow Indian children in Montana participated in a survey designed to tell educators more about Indian parents' wishes for their children's education and especially to find out how parents felt about bilingual education. More than 92 percent of the parents said they wanted their children to be able to speak fluent English on completion of school, but 64 percent said they wanted their children to be able to speak fluent Crow. Nearly 47 percent indicated they would like their children to be able to read and write Crow, whereas 12 percent felt reading and writing Crow was not something they wanted their children to learn during school. Asked straight out, 56 percent said they liked bilingual education because it allowed their children to feel proud to be Indian and because their children would benefit from classroom instruction in their native language until such time as they had become proficient in English. However, 17 percent said they were not in favor of bilingual education because they wanted their children to become proficient in English and they feared the children would become mentally confused if the two languages were mixed in the classroom.

A 1977 report of the American Indian Policy Review Commission indicated that "a total of 289 tribes and bands lived on 269 'Federally recognized' reservations or otherwise defined 'trust areas' in 26 states."[358] Many of these tribes had constitutions with bill of rights provisions patterned after the Federal model. Of importance to issues of Indian vernaculars is that there were approximately 206 different languages and dialects still spoken in 1981 among these Native peoples. Chafe gave a sense of language utilization when he estimated that 49 of these languages had fewer than ten speakers aged fifty or over, while six had more than ten thousand speakers in all generations representing language fluency. Navajo had the most speakers, with well over 100,000. Fluency in the remaining 152 languages fell somewhere between the two extremes.[359] However, in a statement submitted by the National Indian Education Association, the National Congress of American Indians Education Committee, and the National Tribal Chairmen's Association Education Components, it was stated that Indian children spoke approximately 252 languages.

At a time when the national life expectancy was seventy years, the longevity of Indians averaged 55 years. (The Indian suicide rate was twice the national rate). This, coupled with a high birth rate, had resulted in more than half the Native American population being seventeen years or younger, in spite of a high infant mortality rate. Their school dropout rate was the highest in the nation. Only nine percent of all American Indians had completed high school. And of every five Indians, two were unemployed and one was working in temporary or seasonal jobs.

In addition to the 1.4 million pure Amerindians reported by the Census, nearly six million residents of the U.S.—both White and Black—claimed partial Indian lineage. With the ethnic awareness that evolved from the pluralist movement, in fact, no fewer than 134 backgrounds were cited in answer to a 1980 Census question about ancestry.

50 million*	English	13 million	French
49 million	German	12 million	Italian
40 million**	Irish	10 million	Scottish
21 million	African	8 million	Polish

*More than the 1980 population of England.
**Outnumbered the 1980 population of Ireland 12 to 1.

The national origin composition of the Hispanic population in the United States Mainland throughout the seventies was more or less 59 percent Mexican-American, 15 percent Puerto Rican, 6 percent Cuban, and 7 percent Central and South American. The remaining 13 percent consisted of Hispanics from other places. During that decade, the Mainland Hispanic population increased sixty percent to 14.6 million persons, according to the 1980 Census. An analysis of the population trends showed that the states of California and Texas contained more than half of the Hispanic population in the United States: 30 and 22 percent, respectively, of the nation's Hispanics. In fact, more than three-fourths of all U.S. Hispanics were living in a half dozen states: California, Texas, New York, Florida, Illinois, and New Jersey. Better than nine of every ten Hispanics in the U.S. were concentrated in fifteen states. New Mexico was the most identifiably Hispanic state because better than a third of its total population was Hispanic. Texas and California had the second and third highest proportions, respectively; the population of each of these two states was one-fifth Hispanic.

California had four and a half million Hispanics, by far the largest number of any state. Texas had three million. New York had 1.7 million. A dozen other states had Hispanic populations of 100,000 or more. These were:

Florida	858,000	Michigan	162,000
Illinois	636,000	Pennsylvania	154,000
New Jersey	492,000	Massachusetts	141,000
New Mexico	476,000	Connecticut	124,000
Arizona	441,000	Washington	120,000
Colorado	339,000	Ohio	120,000

Every state had at least 3,000 Hispanics, but forty states reported significant Hispanic populations. The largest concentration of Hispanic-Americans outside of Puerto Rico was 1.4 million in New York City—most of whom were Puerto Rican. Los Angeles had the second largest Hispanic population with 816,000—mostly Mexican-American. Nearly 61 percent of the the 422,000 Latinos in Chicago were Mexican-American, 27 percent were Puerto Rican, and 3 percent were Cuban. The ten next largest Hispanic populations were in:

San Antonio	422,000	San Diego	131,000
Houston	281,000	Phoenix	116,000
El Paso	266,000	Albuquerque	112,000
Miami	194,000	Dallas	111,000
San José	141,000	Corpus Christi	108,000

The population of Starr County, TX (on the Mexican border) was 97 percent Hispanic.

Some 25 U.S. cities had Hispanic populations of fifty thousand or more. In many cases, Hispanics constituted the majority population in their cities. El Paso and San Antonio were 62 and 54 percent Hispanic, respectively. Los Angeles and San José were 27 and 22 percent Hispanic, respectively. New York was 20 percent, Denver was 19 percent, and Houston was 18 percent. San Diego and Phoenix were 15 percent each, Chicago was 14 percent, and San Francisco and Dallas were 12 percent each. These proportions were, of course, reflected also in the public school enrollments. In New Jersey, for example, the public school population of the Union City-West New York area was 82 percent Hispanic (mostly Cuban); Hoboken's public school enrollment was 70 percent Hispanic (mostly Puerto Rican); Perth Amboy was 71 percent Hispanic; and Passaic was 53 percent. Large enrollments of Latino students were also found in Denver, Tucson, Hartford, and Newark.

That Hispanics were still at the bottom of the educational ladder was statistically obvious. Whereas three percent of the U.S. population was considered to be functionally illiterate (had less than five years of schooling), 24 percent of all Mexican-Americans and Puerto Ricans were in this category.

The first major study of the educational status of Hispanic students was released in May 1980 by the National Center for Education Statistics. It confirmed again that Hispanic students in the U.S. Mainland were more likely to be enrolled below grade level, score lower on standardized tests, and drop out of school sooner than their White Anglo counterparts. NCES reported that ten percent of the eight to thirteen-year-old Hispanics and 25 percent of fourteen to twenty-year-olds were enrolled below grade level, a phenomenon correlated with such factors as low income, both parents employed, large family size, limited English proficiency, and discrimination—all of which tended to affect Hispanic students more than White Anglophones.[360]

In regard to achievement levels, the study examined the 1977 National Assessment of Education and Progress, which showed Hispanic students seriously trailing the national average in all investigated areas. The best showing was seven percentage points below the national average for seventeen-year-old Hispanics in career occupation and development. The poorest showing was in mathematics where seventeen-year-olds were fourteen percentage points below the national average. Although Hispanic and White Anglophone students in this study were found in special classes for the disabled at rates consistent with their representation in schools, the report noted that Hispanics were underrepresented in gifted and talented programs—presumably because selection tests for these programs were given in English. Among high school seniors, thirty percent of the Hispanics were found to be participating in vocational education programs, compared to 23 percent for White Anglophones.

The study also found that Hispanics aged fourteen to nineteen were twice as likely to have dropped out of high school as White Anglo students in the same age bracket. The attrition rate for White Anglos was about eight percent, compared to seventeen percent for Hispanics.[36]

Other dropout studies consistently found Hispanic students to be the ones most likely to give up before graduating from high school. Based on this sustained trend, one study predicted that for every hundred children entering school in the United States, if they were White Anglophones, 14 of them would not complete high school; if they were Black Anglophones, 33 would not finish high school; but if they were Chicano or Puerto Rican, 40 would not graduate.

This prediction was supported by another study of youngsters in their early twenties which showed a 15 percent dropout rate for English-speaking Whites, a 28 percent rate for English-speaking Blacks, and a 38 percent dropout rate for the Spanish-speaking. And this finding correlated with still another study showing that one-third of all Chicanos and stateside Puerto Ricans 25 years and older had not completed high school.

This report was further substantiated by another study of high school graduates aged 25 and older. It showed seven of every ten White Anglophones had completed high school, half of those who were Black or Cuban had, but only three of every ten Mexican-Americans or Puerto Ricans had graduated. That this situation was improving, however, was evident when younger and older generations of all Hispanics were computed separately. It was found that 57 percent of the younger group (25-29 years old) had graduated from high school, compared to only 34 percent of the older people (in the 45-64 age group).

Of course, not all "dropouts" left school of their own volition. The likelihood of being expelled from school was double for Chicanos and Puerto Ricans than what it was for Anglos. The probability of being left back at least a year was eight times as great for Chicanos

as it was for Anglos. Minority groups in the sixties coined the term "pushout" to describe a student who was in fact expelled, suspended, failed, nudged, or counseled out of school—or left as a result of unbearable situations.

The necessity for schools to "retool" to meet the special needs of Hispanic students was not likely to vanish but, rather, expected to increase. The Hispanic population was collectively younger—and increasing more rapidly—than the national average. While the median age in the United States throughout the seventies had been 29 years old, the median age of Mexican-Americans and Puerto Ricans had been only 20, although Cubans had averaged 37 years of age.

Median Age of U.S. Population in 1980

White Anglophones	30 years old
Black Anglophones	27 years old
Hispanics	21 years old
National Average	29 years old

Fourteen percent of the Mexican-American and Puerto Rican populations were younger than five years of age; only five percent of the Cuban population was under five. The national average for the U.S. was eight percent.

Percentages of U.S. Populations Who Were of School Age in 1980

43% of the White Anglophones
52% of the Black Anglophones
57% of the Hispanics

Ten percent of the U.S. population was older than 65 years of age. The same percentage applied to the Cuban population if computed separately, but only four percent of all Hispanics (collectively) were older than 65.

The U.S. population, as a whole, was growing at a rate of 0.9 percent each year. Computed separately, however, Blacks were increasing at a rate of 1.3 percent and Hispanics at 2.5 percent per year. At that rate of growth, it was estimated that the White Anglophone population would double in 50 years, Black Anglophones in 37 years, but Hispanics in only 25 years.

According to the National Center for Health Statistics in Washington, Hispanics were averaging 107 births per thousand women of child-bearing age (18-44 years old). The average for non-Hispanics was 67/1,000. The Hispanic rate was sixty percent higher than that of other Americans.

Not all the Hispanic population increase in the United States was due to high fertility; a good part of it was still caused by continuous immigration patterns, such as migration from outlying U.S. territories, refugee influx, illegal entries, and other kinds of demographic growth resulting from people moving about in search of

freedom, economic opportunities, or appropriate environment. Not everyone who came to the United States Mainland stayed, of course. Some remigrated, either back to their homelands or to another place, for a variety of reasons. Nearly 60,000 of these remigrants were reported having significant adjustment problems in Puerto Rican public schools in 1980. And, of course, many of them were expected to return to the States, either temporarily or permanently, as migration from the island was increasing again.

Demographic data in the early eighties showed that the United States was the fifth largest Spanish-speaking country in the world (after Mexico, Spain, Argentina, and Colombia).[362] Hispanic civic leaders insisted that, despite all the public awareness campaigns and intensive efforts to insure an accurate count of Hispanics, the 14.6 million figure reported by the 1980 U.S. Census as the nation's Hispanic population still reflected an incomplete count—short by at least one and a half million. Indeed, many Hispanics admitted to each other that they had not returned the census questionnaire and had avoided census takers for fear of having their homes searched or being otherwise harassed by government officials looking for illegal aliens. Other Hispanics openly admitted to not having participated in the census count because they were not convinced that demographic statistics would affect their lives in any significant way—not unlike the reason so many Hispanics were apathetic about participation in the electoral process in the U.S. Mainland.

Many Hispanics—particularly Puerto Ricans—seemed to have resigned themselves to an alienated existence. It appeared as if Hispanic adults, not unlike their children in schools, had subscribed to the Euclidean axiom: if indeed the cards are stacked, then I cannot make it; and if I cannot make it, why try?

This mistrust of the system—grounded on their historical experience and reinforced by the brutally-practical reality of applied politics—contributed in no small way to the perpetuation of the dismal situation of Hispanics in the United States. Most Hispanics, as indeed many other people with special needs, had not come to grips with the fact that the United States is a democracy, not a meritocracy. And that as such, its government is controlled by the political majority, which reserves the right to decide what is best for minorities. And that it is also axiomatic that government takes from the unorganized—and the disorganized—and gives to the organized.

The lack of educational and employment opportunities for Puerto Ricans residing in the U.S. Mainland was clearly reflected in their socioeconomic indices. Financial indicators throughout the seventies consistently showed the median income of Hispanic families to be less than *three-quarters* of the *national* average. The Puerto Rican family income, in fact, was *three-quarters* of the already-low *Hispanic* average. Stated another way, the Puerto Rican annual income was only slightly more than *half* of the *national* median income. The Mexican-American family income had been approximately the same as the average for all Hispanics collectively.

Cuban families, however, had been earning nearly ninety percent of the U.S. median family income—a factor that helped to somewhat inflate the Hispanic average.

Median Family Income in 1980

All U.S. Families	$19,661
Hispanic Families	$14,569
Cubans	$17,538
Mexican-Americans	$15,171
Puerto Ricans	$ 9,855

The bleak socioeconomic condition of Puerto Ricans and other Hispanics in the United States was closely interrelated with their weak political muscle, lack of educational opportunity, limited English proficiency, national origin discrimination, and the low expectation that resulted from internalizing racist rhetoric. Half of these variables—and, to the extent they were interrelated, all of them—could be traced directly to the schools. In this regard, the schools were perceived as the source of both the problem and the solution. They were faulted for failing to provide the services that linguistic minorities needed for scholastic success but, at the same time, were looked upon as the only hope to break the vicious cycle.

In the 1950s, schools had done practically nothing to address the severe language barrier of non-English-speaking students. Youngsters who were linguistically different were expected to acquire a new language and master a typical curriculum at the same pace and rate as native speakers of English—an expectation that was both unrealistic and unfair.

Schools in the 1960s made valuable progress toward the teaching of English as a second language, but did not deal with the importance of cultural identity upon self-concept and other stimuli affecting student motivation. In the late sixties, Cordasco wrote:

> The acquisition of English for the Puerto Rican child (if necessary and inevitable) is not a great problem. It is a soluble problem to which the American school brings a rich and successful experience. What is more important to the Puerto Rican child (and to our society) is the process of acculturation. How does the Puerto Rican child retain his identity, his language, and his culture? This remains the crucial problem. In this role, the role of the school needs to be carefully assessed.[363]

Many schools throughout the nation were still attempting to help language minorities overcome their English deficiencies in the 1970s. Unfortunately, precious few were doing anything to nurture and reinforce the home languages of their students, that they may be developed and utilized as national resources.

According to a survey conducted in 1980 by Kenneth Nickel of Wichita State University, some eighty languages were spoken in the homes of immigrant families throughout the United States. (The 1980 Census, incidentally, coded 387 non-English possibilities, 180

of which were spoken by American Indians.) Spanish was widely spoken, in many cases by native-born American citizens such as Mexican-Americans and Puerto Ricans as well as by Hispanic immigrants from other places. Twenty-seven states reported that at least some of their residents regularly spoke Vietnamese; thirteen cited French; eleven said Arabic, Chinese, Korean, and Laotian; ten mentioned German; nine cited Greek; eight mentioned Cambodian, Italian, Japanese, Portuguese, and Russian; and seven said Thai.

Forty-seven states said that they provided some form of bilingual education program in at least one school district. The majority of these programs were concentrated at the K-6 level. Thirty-eight state departments of education indicated that schools in their states offered bilingual education programs for Spanish-speaking youngsters, twenty for Vietnamese children, twelve for Korean youngsters, ten for French-speaking children, and nine for speakers of Greek. Half the states already had laws which mandated or permitted bilingual instruction as needed—or were in the process of enacting such legislation—and the other half did not seem to have significant enrollments of LEP students. One-fourth of the states, certainly those with the greatest LEP populations, had laws which mandated the provision of bilingual instruction in LEAs where it was needed. These laws were being implemented in Massachusetts, Illinois, Texas, New Jersey, Alaska, Colorado, Washington, Wisconsin, California, Indiana, Michigan, Connecticut, and Iowa. Although not mandated by statute in Pennsylvania, the provision of bilingual instruction was directed by the Commonwealth's Board of Education. Only West Virginia was still enforcing prohibition of instruction in two languages, but the matter was academic because the State had no sizable concentration of LEP children.

Eighteen states reported that they had certification requirements for bilingual education teachers. One of the toughest certification requirements had been imposed by Colorado, where bilingual teachers were required to understand the culture of their students, have ESL training, and take other special classes. Bilingual program administrators had to have bilingual instruction experience. Bilingual and ESL teachers in New Jersey were required to pass a tough language proficiency examination.

The U.S. Department of Education estimated the nation had only about twelve thousand fully-qualified bilingual teachers. An additional twelve thousand and as many aides were badly needed. Only two states said that the supply of bilingual education teachers was adequate. Yet only three states reported that certified bilingual education teachers were paid an additional salary increment.

Thirty-six state departments of education reported that institutions of higher education in their states offered teacher training programs in bilingual education. Eighteen of these state offices reported one or two institutions offering such programs. One state reported 37. Twenty-eight state departments reported that institutions of higher education in their states offered bilingual education teacher training in Spanish; five reported such programs in French;

and four reported Chinese, Korean, Portuguese, and Vietnamese programs for teachers. The three areas that state education officials identified as most important in the training of bilingual education teachers were: (1) fluency in the second language, (2) training in the teaching of English as a second language, and (3) sensitivity to the culture and customs associated with the second language.

Three and a half million youngsters in the U.S. were estimated to need special English assistance. Of these, more than seventy percent were Hispanic, followed by high numbers of Chinese, Korean, Vietnamese, and Cambodian children. Nearly 1.4 million LEP students spoke their parents' language better than they did English. Of these, 831,000 were in bilingual classes, leaving 547,000 unserved. An additional 503,000 LEP students, who were as illiterate in their parents' language as they were in English, were not in bilingual programs. In other words, 1.05 million children eligible for bilingual services were reported unserved. It was believed that if the survey, which was based solely on speaking ability, had been expanded to consider reading and writing skills, the number of LEP children would have doubled. This was supported by the fact that California estimated it had 275,000 children who were limited in English-speaking skills, but a National Institute of Education study that included reading and writing ability estimated California had 584,000 children not proficient in English.

A survey of seven California school districts showed that, on the average, fewer than half of the LEP students spoke their native language any better than they spoke English, according to researchers Heidi Dulay and Marina Burt of Bloomsbury West. One California district reported that almost forty percent of its eight hundred LEP students spoke no Spanish at all. In nine of ten cases, children were dominant in the language *they used* at home—whether it was the mother tongue or English—regardless of what was their parents' native language. There were reasons to believe that the same phenomenon was true in other places, especially states such as Texas and New Mexico. Research from New Mexico and Colorado had also revealed that many Hispanic children spoke English better than they did Spanish.

National origin minority children with a better command of English than their native language had been historically overlooked by educational policymakers, researchers, and curriculum developers. There was no research to assist in program development for these students, nor was there much discussion of the problem by educational practitioners. Presumably, since the students' stronger language was English, they would suffer less of an academic handicap if the curriculum were taught in English rather than in their home language. By the same token, researchers agreed with the recommendation of the U.S. Department of Education that if students communicated better in their native language, schools should have been teaching them in their native language. Nonacademic courses (such as art, music, and physical education) could be taught in English, they suggested, adding that the students

should be placed in intensive English classes. Although it was possible to conduct successful academic classes using both English and the home language as media of instruction, such an approach was generally considered extremely difficult. Instruction in the children's native language until they were ready to transfer into all-English classes maximized the probability that classes would hold their attention; prevented dilution of the time spent on conceptual learning; and was easier on teachers who did not have to deal with teaching both—concepts and English—at the same time.

EVIDENCE OF SUCCESS

During the 1978-79 school year, 127,000 students speaking 29 different languages were enrolled in some type of bilingual education program in New York. The State was getting some $60 million each year in Federal funds for bilingual and ESL programs and allocating $1.6 million of its own money for these programs.

In a six-month period during that school year, the English oral language test scores for students in bilingual programs increased from 52 percent to 70 percent. Conversely, the students' abilities in their native language decreased during the same time.

In the State-funded programs, eighty percent of the students remained in the programs for two years or less. They were showing marked improvement in reading and math scores, and had better attendance records and lower dropout rates than did students in regular programs. A higher percentage of them attended college than did students in the general school population of the State.[364]

Positive results were also reported in several bilingual education programs in Texas. These included projects in Bishop,[365] Crystal City,[366] New Braunfels,[367] and San Marcos.[368]

One of the few longitudinal evaluations of bilingual education in the United States was conducted by the Austin Independent School District by evaluators within the school system. The Austin $3.3 million Federal project, which ran from 1975 to 1980, sought to improve reading ability in Spanish, proficiency in English reading and math, and knowledge of basic concepts.

About 3,500 students—sixty percent Spanish-dominant, forty percent English-dominant—participated in the project in each of the five years. The five-year study showed in 1981 that kindergarten students who participated in the bilingual education project showed greater gains in their knowledge of basic concepts than did their peers who did not take part in the program. Fifth grade students who participated in the bilingual project for five years did better than students who did not, but most of the gains were made by English-dominant or English-monolingual students in the program. Thus, the achievement gap between Spanish-dominant and English-dominant children did not appear to be closing.

In an attempt to transform an essentially political and ethnic debate into one of educational effectiveness, the New Jersey State Department of Education in 1979 tested a sample of bilingual stu-

dents in grades one through twelve to determine their English listening, speaking, reading, and writing skills.[369] The same youngsters were retested in 1980. Since it was not legally possible to employ a control group—as all eligible youngsters were supposed to be in bilingual-bicultural programs—the effectiveness of the programs was measured by the extent to which improvement was related to the length of time students were in the bilingual program. In all grades tested, third-year students significantly outscored first- and second-year ones in acquiring the English language skills. Second grade bilingual students who had been in the program in kindergarten scored an average of 45.4 against a hypothetical score of 50 for an average English-speaking child. The data also showed that the older the child, the more difficult it was to learn another language.[370]

This seemed to disprove the theory that children ought to be brought along to a certain level of sophistication in their home language before the transition to another language was made. But a mounting body of research elsewhere was suggesting that, contrary to the New Jersey experience, older students learned a second language more rapidly and efficiently than did younger children. While those beyond the age of puberty were rarely able to develop unaccented pronunciation (thus it was futile to insist on it), a consistent pattern of growth in language learning ability was evident—at least through late adolescence.[371]

Advocates of bilingual instruction used the combined results of studies such as these to argue that (1) delaying extensive use of English in bilingual programs until the upper elementary grades may have made the teaching of ESL more cost effective, and (2) bilingual education had a long term effect on the cognitive and affective development of the child by providing a firm foundation during the student's formative years. Apparently, the earlier the bilingual mode could intervene in the children's educational experience the more salutary were the results.

There were some studies that correlated early intervention with lower dropout rates. Obviously a LEP student could easily get lost in the bureaucratic anonymity within a big city high school. A more closely knit, less impersonal atmosphere pervaded most bilingual programs—the sense of "family" that was normally associated with having good communications between parents and teachers, warm relationships among schoolmates, and the kind of pleasant memories that generally made leaving school to be as traumatic as leaving home.

New Jersey, for example, reported in 1981 that—for the first time ever—the dropout rate of Hispanic students was lower than that of Blacks. Whereas 1.5 percent of the Black student enrollment dropped out, only 1.4 percent of the Hispanics did. Not a dramatic difference, to be sure, but a significant improvement over the past trend, which saw Hispanics dropping out at a rate twice that of Blacks.

Follow-up studies of the New Jersey programs conducted in

1981 confirmed that they were working well. The students they served were making large academic gains. Another study in 1982 showed that New Jersey bilingual students made significant gains during the preceding year in native language reading (25th to 30th percentile), English reading (10th to 16th percentile), English language skills (10th to 27th percentile), native language math (12th to 34th percentile), and English math (23rd to 33rd percentile). Moreover, consonant with the State Bilingual Education Act, more students were being mainstreamed from these programs than had been in past years.[372]

Bilingual education students were learning English and math at above-average rates also in Michigan. A 1979-80 report by that State's Department of Education indicated that bilingual students were learning at a higher rate than the national average for their grade level. Achievement in math was at a yet higher rate. Key factors in greater academic performance were increased number of hours of bilingual instruction, frequent family participation in the schools, the employment of teachers who had bilingual endorsement, and the use of aides who had received inservice training. The data indicated that students in the Title VII bilingual programs gained almost twice as fast in math achievement as did students in all State-funded programs. The average rate of gain in English reading achievement was 4.81 normal curve equivalent units.[373]

An evaluation of 39 bilingual programs in Colorado showed that in practically all of the programs, LEP children learned at a rate as good as or better than the rate expected for all students, including those from English backgrounds. And the English language skills for the children enrolled in half of the bilingual programs were well beyond the expected growth rate for all students. At the kindergarten level, all bilingual programs either maintained or significantly increased achievement for linguistically different students, as well as for nonlinguistically different students participating in the program. At the first grade level, 23 of 24 bilingual programs reported no loss, or significantly higher achievement, for linguistically different children; while 20 of 21 indicated similar success for nonlinguistically different children. At the second grade level, 30 of 33 programs showed maintained or significantly increased achievement. At grade three, 29 of 31 programs reported that achievement was maintained or significantly increased.[374]

Other studies elsewhere showed that bilingualism was not the cause of poor reading achievement;[375] that, in fact, Hispanic students learned to read faster when taught both in Spanish and English.[376] Still other studies showed bilingual students had better problem-solving abilities than monolingual students.

At a national level, the Significant Bilingual Instructional Features (SBIF) Study, formulated by the Division of Education Part C Coordinating Committee, was based on the recognition that bilingual education programs were diverse, and that there was little empirical knowledge concerning that diversity. The SBIF Study was finding that teacher personality and enthusiasm, for example, could

be significant factors in the success or failure of a bilingual program. The amount of time on task, the quality of immediate feedback, and other basic aspects of instruction played important roles in the way all children learned—and were key features in bilingual education.[377] There was no research yet to indicate whether any given curriculum model in bilingual instruction was more effective than another.

CAPACITY VS. BARRIERS

Bilingual education support peaked in January 1980 when the initial Presidential budget request for Title VII was $192 million, a fifteen percent increase over the previous allocation of $167 million. The status of Title VII in 1980 was characterized by Dr. Josué González, director of the Office of Bilingual Education and Minority Language Affairs (OBEMLA) in the U.S. Department of Education, as halfway between a demonstration project and a full service program. He described the period as one of capacity building to (1) improve the ability of the nation's educational system to respond effectively to the needs of LEP children and (2) build local capacities targeted at specific languages, populations, and needs. The plan involved a dozen new elements.

1. While the basic LEA program was to continue, a new demonstration effort was to serve particular populations which were not funded before, such as exceptional students, dropouts, preschool children, recent immigrants, children of migrant workers, and high school students preparing to enter the job market.
2. A dean's grant was being established to facilitate the acquisition and transition of bilingual education personnel to full faculty status.
3. SEA staff was to be trained to provide leadership in bilingual education.
4. Parents were to be trained to participate in the education of LEP students and to interact with schools in the design, conduct, and evaluation of programs.
5. Network centers were to use OBEMLA contracts to develop curricular and testing materials which would respond to national and regional needs.
6. OBEMLA, SEAs, and Bilingual Education Service Centers were to expand and improve pre-application technical assistance to grantees.
7. The use, recruitment, and training of qualified bilingual education personnel were to be emphasized as a condition for continued funding.
8. LEAs were being required to show that they were assuming the costs associated with the program in order to receive a second award.
9. Title VII regulations were to be made more compatible with Lau requirements in order to simplify compliance and to reduce

paperwork required from the LEA by OBEMLA and the Office for Civil Rights.

10. ESAA bilingual projects were being phased into OBEMLA (as mandated by the 1978 legislation), although no major changes were expected until Fiscal Year 81.

11. SEAs were to ensure coordination between Title VII and state bilingual programs.

12. Models and patterns were to be developed for bilingual programs and their evaluation.

A coordinating committee for bilingual education research (involving the National Institute of Education, the National Center for Educational Statistics, the Office of Evaluation and Dissemination, and OBEMLA) was established and a comprehensive research agenda was developed. Evaluation was to be improved, with strong emphasis on measurable goals.

A significant shift in the distribution of Federal bilingual education funds was proposed that year. Grants were to be awarded more on the basis of the quality of the application (the instructional approach) than the location of the district, or its stated need.

Under rules proposed earlier, grants would have been awarded to areas with high numbers and concentrations of needy children, but the concentration provision was removed because it would have discriminated against small and rural districts or those that had achieved racial or ethnic balance. The neediest LEAs were to be those with significant numbers of LEP students who had not been served before, had been traditionally underserved, and/or came from low-income families—not necessarily the greatest number of LEP students in the project school, as had been proposed in the summer of 1979.

The Education Department ultimately awarded 950 grants totalling $167 million to support bilingual education programs in 1980-81, the same amount that had been allocated in the previous school year. The funds were used to support ten different categories of programs serving some 350,000 children whose first language was not English. The largest share of funds, $99 million, was used in 564 basic programs to teach children their own language while they learned to speak and understand English. SEAs would continue to receive five percent of the total amount awarded during the previous year to the LEAs of their states. Nearly $8 million was awarded for 35 bilingual demonstration projects nationwide and some $10 million went for special teacher training.

The lack of qualified teachers had always been one of the major obstacles to effective bilingual programs. In some cases, however, school systems demanded that their teachers meet unrealistic or excessive—often political—criteria, which only served to prevent the implementation of bilingual education.

A 1979 U.S. Supreme Court ruling gave states the right to reject aliens as teachers in elementary and secondary schools if the applicants were eligible for citizenship but did not seek it. According to

the Department of Health and Human Services, some sixty thousand refugees from Southeast Asia were to become eligible for the first time in 1980 to apply for United States citizenship.

On the other hand, however, guidelines issued by the Equal Employment Opportunity Commission in 1980 declared that certain institutional requirements relative to the alma mater of job applicants violated a Federal antidiscrimination law. The rules, intended as interpretations of Title VII of the 1964 Civil Rights Act (which barred job discrimination on the bases of race, national origin, sex, and religion), specified the following as illegitimate, artificial barriers to equal employment opportunity:

- The requirement by some schools, colleges, and universities that their teachers had to have studied abroad as a condition for employment—unless the institution could justify the requirement as a "business necessity" and did not favor one nationality over another.
- The requirement that foreign language teachers have native speaking ability—if it tended to exclude people born in English-speaking countries—unless, again, a clear business necessity could be established.
- Discrimination against job applicants who had received their education abroad—and lacked a degree from a United States institution. This did not preclude checking with the foreign institutions to ascertain that the degree had been conferred and equating foreign degrees to their appropriate U.S. level. (For example, a Cuban doctorate was usually equated to a U.S. baccalaureate degree. Thus Cuban doctors of pedagogy could not be denied jobs requiring undergraduate degrees solely on the basis of their Cuban education—although they would not be considered *doctors* of education.)

Schools in Florida were particularly vulnerable to problems stemming from foreign degrees because of the influx of Cuban professionals to that State. Other states, however, were not exactly spared from this dilemma, as their needs to recruit teachers with specific abilities were increased by secondary migrations of alien families plus the Federal Government's relentless demands for services to LEP students. Legislation, court rulings, and administrative orders all pretty much agreed that these children were entitled to an equal educational opportunity and local educational agencies had the responsibility to provide it. The Lau guidelines, for all practical purposes, had become legal directives. Their fundamental legality—as remedies in reparation of Civil Rights infractions—had withstood several judicial challenges.

20 Proposed Lau Regulations

IN THE SPRING of 1979, as part of the "Hispanic Initiatives," HEW decided to rewrite the Lau Remedies for release as regulations. A draft was prepared for HEW Secretary Patricia Harris in the fall of 1979, but budget and policy analysts in the Department kept the document from being published.[378] The document was submitted to the Justice Department for review in early 1980, even before the Office of Education became a department. The proposed regulations were ready and waiting for the first Secretary of Education Shirley Hufstedler to take office and act on them. Secretary Hufstedler was well acquainted with the *Lau* case, on which she had written an opinion as a judge. In her first major policy pronouncement, she proposed a formal set of regulations for compliance with Lau requirements which spelled out criteria in four major categories:

1. Identifying students' primary language.
2. Assessing their skills in both English and the primary language.
3. Providing effective services that would teach the students English and help them keep pace in academic subjects. (Bilingual education was one option, ESL was another. There were other options.)
4. Determining when students no longer needed the required services and could be taught exclusively in English.

The proposed rules incorporated two fundamental goals crucial to implementation of Title VI and the *Lau* decision mandates: (1) that minority children with limited English proficiency be taught English as quickly as possible, and (2) that such students receive instruction in locally required subjects in a language they can understand until they learn English.

The rules separated students with a limited ability to speak English into three groups—derived from California language tests—English-superior, primary-language superior, and those equally limited. Schools could teach English-superior children—those with a clear ability to speak English better than their native language—in English, under the proposed rules. However, these students would also have access to compensatory English classes. For students more proficient in their native language than

in English, the rules required instruction in the native language, as well as intensive classes in English.

U.S. Education Department officials could not agree on how best to serve children who were equally limited in English and their native language. They proposed two options: teaching the children in English only or giving them instruction in two languages. However, research from Burt and Dulay had suggested equally-limited students should be taught in the language they most often spoke at home. If children (who did not clearly excel at either language) spoke Spanish at home, then they should be taught in Spanish while they were learning English. Those at ease in English should be taught in English. In either case, children limited in both languages should receive additional compensatory English instruction. Dulay and Burt recommended that children equally limited in both languages should be tested at least twice to determine a clear ability in one language, but admitted such a procedure was costly and may still yield inconclusive results.

The proposed Lau rules represented what many educators and civil rights organizations viewed as a fair and effective approach to fulfilling the responsibility of the Department of Education under Title VI of the Civil Rights Act. And the rules were unveiled at the same time that the Office for Civil Rights announced it would step up enforcement of compliance in an effort to reduce its backlog of cases. In its proposed 1981 operating plan, OCR said it would spend twenty "investigator years" monitoring 25 districts' Lau plans for desegregating non-English-speaking students. Thus the question was no longer whether the needs of LEP students would be met or not, but rather what would be the best way to do it, how comprehensive the program, who would participate, how long, and who was to pay. Clearly, the government—both Federal and State—had come a long way in protecting the rights of children from disenfranchised minority groups, especially linguistic minorities. The proposed regulations were issued for public comment. If approved, they would become regulatory directives—no longer recommended guidelines.

Public reaction was quick, heated, and controversial. Thousands of letters poured into the Department of Education's Office for Civil Rights in the first few weeks as education board members, school administrators, parents, and public agencies (including the Council on Wage and Price Stability) jumped at a chance to comment on the proposed rules. Some felt the regulations went too far, others felt they did not go far enough; some felt they were too rigid (did not allow enough latitude), some found too many loopholes; some saw too much bilingual education in the regulations, others did not see enough.

The battle lines were immediately drawn: progressive vs. reactionary, Democrats vs. Republicans, cultural pluralists vs. melting pot theorists, and the executive branch vs. the legislative branch. When the smoke cleared, three basic issues remained: (1) local vs.

Federal control, (2) teaching English vs. bilingual education, and (3) who was to pay.

LOCAL CONTROL

Advocates of local control lost no time in opposing the proposed regulations, claiming that the Federal government had no right "intruding" into what had been traditionally a local prerogative—classroom curriculum. They reminded the Federal government of the State's constitutional responsibilities and rights to regulate education. They said the new rules would destroy the creative climate for solving problems. Many legal minds pointed out the proposed regulations violated the Federal-State relationship section of the act creating the Department of Education:

> No provision of a program administered by the Secretary (of education) or by other officer of the department (of education) shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational installation, school or school system ... except to the extent authorized by law.[379]

Yet, others contended that the Department of Education had been under court order to clarify minimal requirements. They saw the absence of standards as an open invitation to litigation which could have led to the imposition of specific measures mandated by courts—as had happened in desegregation cases. The issuance of the regulations, they said, was not a departure from accepted procedure by the Office of Education. The Department should have at minimum the authority to hold grantees accountable for funds received.

Trust was at the heart of the issue. The parents of LEP students did not trust the schools to "see the need to do the right thing in good faith" without Federal monitoring. School administrators, on the other hand, were suspicious of where the Federal government was heading in the way of impacting local control and how far it could go with its authority. Many education groups, school systems, and legislators feared the rules' potential for setting an undesirable precedent. They suspected the new Department of Education would claim the power to regulate what and how schools should teach. The American Association of School Administrators, for example, opposed the rules both on cost and as a threat to local governance.

Advocates of local control also maintained that decisions on personnel, instructional practices, and administrative policies were the prerogatives of State and local boards of education. Opponents maintained that "local control" had been a euphemism for selective exclusion at best, for blatant discrimination at worst.

Bilingual educators and Hispanic leaders particularly depended upon the Federal presence. Only a Federal hand, they agreed, could apply enough pressure to hold down the inequities stemming from

a State's relative inability or unwillingness to deal fairly with the needs of their children.

Local school officials had a different view. They insisted that too much instructional time was being spent complying with external (Federal) requirements, to the detriment of basic skills and other critical curricula. They often pointed to the way target services that required students to be pulled out of the classrooms were segregating these children for much of the school day.

Federal officials dismissed the grievance, noting that local school personnel often exaggerated the problems of administering Federal programs. They denied that the element of accountability in these programs was confusing, and suggested that local mismanagement—especially by those who were not supportive of these categorical programs and did not wish to integrate them into the system—contributed greatly to the muddle.

The popular perception of the burdensome aspects of Federal policy was more myth than fact. A study by SRI International, a Menlo Park, CA research firm showed that the sustained Federal presence, apart from assisting in mitigating problems, had caused people to become used to the laws, to understand them better, or to fear them less. Through repetition, the key principles underlying program rules seemed to have sunk in and become part of the standard operating procedures. Most people had, in fact, forgotten what a school was like without targeted instruction.

Even pull-out programs had been found beneficial because sitting in a regular classroom all day was a confusing and frustrating experience for children with special needs. In addition, pullout programs permitted classroom teachers to devote more attention to nontarget students when they did not have to tailor their lessons to (or spend extra time with) children with problems.

Contrary to popular belief, the SRI report said, instead of "tying the hands" of local decisionmakers, Federal mandates tended to increase their powers, because they gave them legal backing. Local district personnel derived increased authority from Federal compliance standards as their knowledge of Federal guidelines strengthened their positions in local policy disputes, and Federal programs broadened their resources. Conversely, very few community leaders who spoke out for target students had gained a lasting foothold in school decisionmaking solely through the vehicle of Federal programs.

If the Federal presence were to be removed, it was dreaded, the parents of LEP students would have to match wits with local school boards and educational agencies in order to get services for their children. Clearly, parents alone were no match for school officials, not because they lacked the intelligence, but because they did not have access to resources such as statistics, computers, dissemination capabilities, clerical support, equipment, duplication services, privileged records, research data, and legal counsel paid by the system.

CURRICULUM DICTUM

Many witnesses at the public hearings resented that the Department of Education seemed to be dictating a single method of instruction—bilingual education—when there was inadequate research to support that approach. They saw an attempt in the rules to encourage the maintenance of native languages.

Other witnesses argued just as vehemently that bilingual education was not a method—nor an approach—but a concept which, in any case, was not mandated by the regulations. The rules, they said, simply specified that LEP students receive understandable instruction in subject areas while participating in transitional language programs which would enable them to learn English as soon as possible. In fact, the National Puerto Rican Coalition criticized the rules as weak and full of loopholes. A provision giving the Education Secretary the right to waive requirements in the rules in several instances was termed "unprecedented in Civil Rights regulations" and dangerous. But Coalition President Domingo García also opposed the transitional approach "because it failed to recognize the potential benefit of maintaining a student's primary language." Forcing students with only a minimal command of English to leave a bilingual education program after only two years "will only assure failure in all future work for the child," he wrote, "the end result will be children who are functionally nonlingual and biilliterate."

IMPLEMENTATION COST

The growing national concern over the faltering economy was causing school boards across the country to oppose any program which would increase the price tag of education. Not surprisingly, the implementation cost for the proposed Lau regulations became one of the major points of contention at the hearings. In essence, most school districts were telling the U.S. Department of Education: "if you mandate it, you pay for it"!

Some experts were saying the $300 million in Federal and State monies schools were already spending annually to educate LEP students would have to be doubled to bring the nation's schools into compliance with *Lau*. The estimated cost depended on each child's linguistic category, the number of children identified, the type of services selected—and who was making the estimate. Based on these four criteria, the additional cost could have gone from below $200 million to above $400 million nationwide. Most experts agreed, however, in predicting that the number of pupils targeted for services would increase dramatically simply because so many eligible children were not being served without the rules.

The additional cost of providing bilingual instruction had been previously estimated by IDRA (1977) to be approximately $200 per pupil, by OCR (1978) to fall between $203 and $391 per pupil, and by other experts around the country (1979) to average fifteen per-

cent above the standard cost per pupil in public schools. However, experts also agreed that this initial surcharge would begin to decline after the first year and continue to decrease gradually. After five years, most experts agreed, the additional cost would be down to about four percent because less teacher training would be required, fewer teacher aides would be needed, and almost all materials would have been acquired by then. Primary language identification would take place as the parents registered their children for school, the Education Department projected, and annual assessment costs would drop to about $3 million after five years.

Advocates for LEP children emphasized that the immediate short-term costs of the Lau rules would enable LEP students to have an equal educational opportunity which, in the long run, would prevent the historical pattern of dropouts, unemployment, public aid, and crime. In known instances in which LEP children were being referred to learning disability classes in special education programs, they said, the correct implementation of the proposed regulations would prevent the need for this costly treatment.

VALIDITY QUESTIONED—AGAIN

As could have been expected, questions about the effectiveness of the bilingual methodology—the whole issue of its validity—surfaced once again. Although these challenges were certainly not new, the tumultuous winds accompanying the Lau proposals were now blowing them out of proportion. Critics were not only convinced that bilingual instruction had failed to resolve the problems of LEP students, many suggested that bilingual education was, in fact, causing these problems. It seemed as if most of society had expected bilingual education to achieve in ten years what general education had been unable to achieve in two hundred years. It was no secret that many people felt that all education was failing. A staggering 23 million Americans—one in five adults—lacked the reading and writing abilities needed to handle the minimal demands of daily living. An additional thirty million were only marginally capable of being productive workers. Thirteen percent of high school students (forty percent among minority students) were graduating with the reading and writing skills of sixth graders. More than one-third of adults had not completed high school, and the number was swelling by nearly a million school dropouts a year. Scholastic Aptitude Test scores had been declining for fifteen years. College and university officials were complaining that the public schools were not sending them students who could read and otherwise function in a college environment. The public school systems, on the other hand, complained about the quality of teachers that colleges were graduating and thus placing in the job market from which schools had to recruit. It was a vicious cycle.

Public trust in schools had also declined—especially in the second half of the 1970s. More and more families were taking their children out of public schools and opting instead for private schools

and other alternatives. An estimated twenty thousand U.S. families were teaching their children at home during the 1980-81 academic year. Public school enrollment had dropped ten percent in ten years as the "baby boom" generation grew up. Colleges were graduating fewer teachers, as women (who had constituted two-thirds of the nation's teachers) had new career options open to them. Teachers were earning less than construction or sanitation workers. This was hardly a fertile landscape on which a striving educational concept could survive.

SPURIOUS ISSUES

Other concerns were expressed during the period of public comment. Some seemed legitimate, such as the argument advanced by the U.S. Chamber of Commerce and the National Association of Secondary School Principals regarding the segregation of national origin students. But many hidden agendas—totally unrelated to the logic of bilingual instruction—also surfaced, to the detriment of the proposed regulations.

For example, the National Education Association, which had supported the creation of a cabinet level Department of Education, agreed with the proposed rules; the American Federation of Teachers, which had been strongly against the idea of a separate Education Department, was just as strong in opposing the Lau rules. Reacting to what they perceived as political muscle-flexing by the newest addition to the executive branch, some officials challenged the regulations on principle as a sign of protest against the Federal bureaucracy. The proposed rules brought out the traditional charges against bilingual instruction. Among them was the proverbial job security issue. The movement was tagged, again, as an employment program for persons with bilingual language capability. These teachers tended not to be qualified and provided an inferior education in their schools, according to the testimony of some witnesses.

Others denied this, adding that, in the vast majority of cases, bilingual education instructors were certified teachers who had to complete additional courses to gain a State credential in bilingual specialization, or to qualify for a bilingual endorsement. As expected, AFT president Albert Shanker blasted the proposed Lau regulations as "a formula for welfare in our schools." He criticized a provision of the proposed rules requiring the employment of nonteachers—who were, nonetheless, bilingual—if a school could not find bilingual teachers. "If this is adopted, thousands of experienced teachers will be laid off so teachers who are not teachers are hired," claimed Shanker. He was told that bilingual language ability could be acquired by any person and that teacher preparation in all languages and in bilingual methods was available to all teachers and college students. (According to a 1978 National Center for Educational Statistics study, more than half of the teachers

providing bilingual instruction were, in fact, primary English speakers.)

While the hierarchy of the American Federation of Teachers registered sharp opposition to the proposed rules, AFT's California branch broke away from the national group and endorsed the rules as consistent with its position and similar to a bill it supported in its State. "We share the concern that the Department of Education may be exceeding its authority in designating bilingual education as the means of meeting the needs of children who are not proficient in English," stated the California Federation of Teachers, "but we are also concerned that the highly charged political atmosphere surrounding the whole issue of bilingual education not get in the way of rational thinking."

The Commonwealth of Virgina was, perhaps, one of the most aggressive states in opposing the rules. Virginia's Superintendent of Public Instruction John Davis had been superintendent of schools in Fairfax County, a very large school system adjacent to the District of Columbia, which had been cited by OCR in 1976 for failure to serve LEP students. He actively sought the support of other chief state school officers in categorically opposing the proposed rules.

In his prepared presentation at the September 1980 public hearing in Chicago, Dr. Davis rationalized that (1) the regulations exceeded the court's decision, (2) research did not favor bilingual education, (3) the proposed rules required no commitment from schools with fewer than 25 students, (4) their effect on ESL (only) programs would be detrimental, (5) they were too expensive, (6) procurement of qualified teachers would be difficult, (7) student assessment would present problems, (8) student identification would also be difficult, (9) recordkeeping would be burdensome, and (10) Virginia had never received complaints that LEP students were not being adequately served.[380]

On the other side of the issue, the Mexican-American Legal Defense and Education Fund (MALDEF) argued that the regulations set minimal standards. Some of the flaws listed by MALDEF included:

- lacked provisions for LEP students who were even more limited in their native language
- permitted "good faith" efforts by high schools
- teacher proficiency standards were weak
- exit criteria were low
- parents' option could be misleading
- waiver by Secretary of Education was unprecedented in the Civil Rights arena[381]

CONGRESSIONAL REACTION

School officials and Civil Rights advocates were not the only ones involved in the tug of war over the proposed rules. Congress

took action as would befit a national disaster. Even as public hearings were being conducted on the proposed regulations during August and September 1980, both houses—acting in tandem—made a series of Congressional moves to block implementation of the rules.

The House Appropriations Committee first adopted language cautioning the Department of Education from requiring instruction of basic courses in languages other than English and from prescribing other remedies such as those proposed in the Lau rules.[382] Sen. James McClure (R-ID) introduced the Local Schools Option Protection Act, directing the Secretary of Education to withdraw the proposed rules immediately.[383] The Senate did not act on the bill.

But the House adopted an amendment introduced by Rep. John Ashbrook (R-IL) prohibiting the Department of Education from earmarking Federal money to enforce the Lau rules or otherwise address the needs of LEP students through any program other than intensive English instruction.[384] Sen. McClure then proposed to "improve and clarify" the Ashbrook Amendment by barring the Department from promulgating regulations prescribing any particular method to address the needs of LEP students.[385] Ashbrook later introduced a bill to subject the Lau Regulations to the Congressional review process.[386]

President Carter strongly defended the new bilingual education rules and, in fact, launched an attack on Congressional efforts to bar their implementation. "I have a firm commitment to bilingual education," Carter said, "too many children do not learn, too many are scared to speak in class, too many drop out of schools where their language is not spoken." He called the amendment to block the rules "a disgraceful attempt to play politics with the civil rights of our children." The President vowed to defeat the amendment. However, when the Senate passed a House Joint Continuing Resolution to keep Federal programs operating during FY 1981,[387] it contained a rider offered by Sen. Lawton Chiles (D-FL) in substitution of an amendment introduced by Sen. McClure, which stated that: Notwithstanding any other provision of law, no funds available to the Secretary of Education could be used to enforce any final regulations replacing the Lau Remedies before June 1, 1981.[388]

The continuous practice by members of Congress of attaching riders to appropriation bills, which lessened the ability of the Federal government to enforce Civil Rights laws was criticized by the U.S. Commission on Civil Rights. "It calls into question," wrote the Commission, "the considered judgment of those legislators responsible for the great body of Civil Rights law."[389]

Clashes between Congress and the executive branch over Congressional power to veto the actions of Federal agencies tended to violate the constitutional doctrine of separation of powers. (In fact, the Supreme Court ruled two and a half years later—in *Chadha* v. *INS*—that legislative vetoes limiting the Executive Branch's ability

to implement a law were an unconstitutional usurpation of power by Congress.)

NABE President Ricardo Fernández called the legislative action an "intolerable limitation which will remove the major force behind the Federal government's enforcement effort and thus set a negative precedent for enforcement of Civil Rights law."[390] Under the 1964 Civil Rights Act each Federal agency had been given rulemaking authority along with enforcement responsibility. Enforcement necessitated expenses. Therefore, if funds could not be expended, the rules could not be enforced. In essence, bilingual advocates were saying, Congress was negating whatever power the new regulations would have, by denying the Secretary of Education the power to withhold Federal funds from schools in noncompliance.

U.S. V. TEXAS

A major boost to *Lau* and bilingual instruction was provided in the beginning of 1981 by a Federal court's mandate of an unprecedented, comprehensive, statewide bilingual education program. As part of the mammoth school desegregation action initiated by the U.S. Department of Justice in 1970, in *U.S.* v. *State of Texas*, the State Education Agency had been required in 1971 to desegregate nine all-Black school districts. Hispanic plaintiffs entered the case later in a suit filed by the Mexican American Legal Defense and Education Fund in behalf of the G.I. Forum, the League of United Latin American Citizens, and 35 individual students. Approximately 370,000 Mexican-American children were said to be neglected by the State's school system. The suit, filed in the Federal Court for the Eastern District of Texas, charged noncompliance with:

(1) the equal protection clause of the Fourteenth Amendment to the U.S. Constitution;
(2) the Civil Rights Act of 1964;
(3) the 1971 court order's mandate of compensatory education for minority children; and
(4) the Equal Educational Opportunity Act of 1974 (EEOA74).

In a series of pretrial agreements, it was determined that the case would be heard on purely statutory—not constitutional—bases. Constitutional issues were, nonetheless, addressed during the 1981 trial. In addition, the Assistant Attorney General (AAG) representing the State of Texas accepted a large number of stipulations presented by the plaintiffs, which consisted of more than four hundred statements admitting to statewide historical discrimination against Mexican-American children in Texas schools. Subsequent to the admissions, the State officially requested that they be withdrawn from the trial on the bases that the AAG had erred in agreeing to them without consulting the State Attorney General or the Texas Education Agency (TEA) and that they were too conclusory to warrant a factual determination of historical discrimination.

The motion to withdraw the stipulations was denied by the court, but the judge did concur that Mexican-Americans had been subjected to *de jure* discrimination by Texas in violation of the Equal Protection Clause of the Fourteenth Amendment. U.S. District Judge William W. Justice agreed that the State had deliberately discriminated against Hispanic children by placing them in "Mexican schools," stocking those schools with "vastly inferior" equipment and programs, and trying to Americanize the students through a sink or swim approach.

The pervasive, systemwide discrimination against Mexican-American children in the field of education was in and of itself proof that the prevailing language-based learning problems suffered by these children were caused (at least in part) by *prior* unlawful action by the TEA. Since the State "formerly vilified the language, culture, and heritage of these children with grievious results," the court said, the children's learning difficulties must be redressed and the remaining vestiges of past discrimination must be eradicated.

The court found no evidence that the State's *recent* policy *purposely* discriminated in violation of Title VI of the Civil Rights Act of 1964. Existing programs, although inadequate, were not *discriminatory*. In addition, the plaintiffs' request for a comprehensive bilingual program could not be justified on the basis of the original court decision, because the 1971 order did not contain specific guidelines for a compensatory program. It merely required the filing of a report to propose remedial programs and this requirement had been satisfied by the TEA.

However, Texas had failed to take affirmative steps to remove the vestiges of past discrimination and segregation of students, of which the State had been found guilty. In addition, Texas was found in violation of EEOA74 which bars State denial of educational opportunity, in this case "the failure ... to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional program."

While the State appeared to be making perfunctory attempts to respond to the statutory mandate of EEOA74, it was not achieving meaningful results. The judge interpreted the bottom line of the Congressional legislative intent as requiring substantive results, not legally satisfied by *pro forma*—but ineffectual or counterproductive—efforts. Therefore, only appropriate measures which would actually overcome the children's language handicaps would have constituted compliance with the Act.

The State bilingual program, which the court found inadequate, mandated bilingual instruction only in kindergarten through grade three and only then in districts with more than twenty English-deficient students in one grade level. The program was optional, with some State aid, in grades four and five and was optional in grades six to twelve without any State support. The court found fault with the Texas LEP student identification procedure, bilingual program exit criteria, failure to provide subject instruction, lax monitorial system, lack of enforcement of bilingual regulations,

weak teacher-recruitment efforts, and partial segregation caused by the State's K-3 bilingual program.

In the absence of any State initiative to appropriately exercise affirmative action that would achieve substantive results, the judge in this case proceeded to prescribe a remedy which contained significant dosages of bilingual instruction. While bilingual education per se was not required by the law, since Texas had failed to select any suitable course of action when it had the option to do so, the judge now would exercise his prerogative and impose his plan upon the State. He relied heavily on bilingual instruction because he was convinced it was uniquely suited to meet the needs of the State's Hispanic students.

In the meantime, Texas was edging a little closer to compliance by improving its own State law on bilingual education. The Governor's Task Force on Bilingual Education created in March proposed a series of recommendations leading to a stronger bilingual mandate in the State. In May, the Texas Legislature modified its own bilingual law, although it provided a meager $50 per child per year for the additional cost of bilingual instruction and laid heavy responsibilities on the State Board of Education to develop specific regulations for its implementation. The amendment extended the provision of bilingual services to the fifth and sixth grades, a concession that fell short of satisfying the court's imperative. The court noted that the incidence of language deficiency was not limited to the early years, but occurred at all grade levels. Testimony presented at the trial had established that one-fourth of the LEP students of Texas were found in grades seven through twelve.

Thus the trial court ordered instead that bilingual instruction in all but nonacademic subjects be provided to *all* Mexican-American students in all Texas school districts with twenty or more LEP students in *any grade* K-12. It required a suitable teacher recruitment and training plan. And it also required pupil integration to the extent possible—separate schools would not be tolerated. The court did make some concessions to the State. It allowed for a six year, grade level phase-in program at grades six through twelve. Alternatives were spelled out for districts enrolling fewer than twenty students in a grade level, a course, or a school district. And, recognizing the shortage of endorsed bilingual teachers, the order allowed for temporary deviations and emergency bilingual teaching permits by districts unable to hire enough certified teachers. It also permitted school districts to pool their resources to provide bilingual instruction. ESL instruction alone, however, could not be used in lieu of bilingual education.

Judge Justice's decision was appealed to the Fifth U.S. Circuit Court of Appeals with the support of the U.S. Justice Department, which felt that the unprecedented Federal court order—the first ruling that explicitly mandated statewide bilingual instruction—went too far and needed to be tempered. Although concurring with the trial judge that Texas was in violation of EEOA74, the

Federal government said the Fifth Circuit's own standard for bilingual education required only that a State have a program for overcoming language barriers, using "any approach endorsed by a body of educational experts." (The Fifth Circuit had previously interpreted Congress' intention as allowing State and local authorities to retain considerable latitude in aiding LEP students.)

PROPOSED LAU RULES WITHDRAWN

This local flexibility was, precisely, the crux of the argument concerning the proposed Lau rules, an argument that was to be supported by the new Federal administration coming into power in the midst of the Lau controversy. Dr. Terrel Bell, who had issued the Lau Remedies in 1976 when he was U.S. Commissioner of Education under President Ford, was renamed to the top Federal post in education by President Ronald Reagan in 1981. In his first major act in office, Secretary Bell unceremoniously withdrew the controversial regulations—thereby ending all disputes on the matter and transmitting a message of change to the American people. "I would like to use this regulation, symbolic of many of the ills that have plagued the Federal government and this fledgling department," he announced, "as a sign that we will produce fewer and more reasonable rules and provide a more civil service." The Secretary was apparently trying to demonstrate the administration's intention to deregulate social, educational, and human services—and he was obviously making an example out of Lau. Bell's move to kill the rules, which he called "harsh, inflexible, burdensome, unworkable and incredibly costly," simply put into action a policy held by President Reagan's administration.

Bell warned that no school administrator was to misread his action as an invitation to discriminate against children who faced language barriers. The Department would continue to protect the rights of children who did not speak English, Bell said, but would do so by permitting school districts to use any way that had proven to be successful. He assured everyone that the responsibility of schools to provide equal educational opportunity for all children was recognized and would be honored by the Department of Education.[391]

Secretary Bell urged State education officials to take more responsibility for complying with all Federal mandates so the U.S. Department of Education could take itself out of the business of monitoring State and local educational agencies. It would behoove the states to do more so the Federal government could do less, said Bell. While agreeing to remove monitoring and enforcement from his department's agenda, Bell warned that government could not simply leave a void. "Responsibilities," he concluded, "must be met." The Secretary's statement was followed by an announcement from the U.S. Department of Education promising a new set of regulations by June 1981.

While some supporters of bilingual education were upset by the

delay, however, others saw it as a blessing in disguise for it removed the proposed regulations from what had become a highly-politicized atmosphere, which clearly prevented a calm and reasoned examination. In fact, although the proposed regulations were withdrawn effective immediately, the Department emphasized that the previously-existing Lau Remedies would continue to be the guide used to evaluate school districts' compliance with Title VI. While a review was being made of the regulatory alternatives available, continued use of the Lau Remedies would permit elementary and secondary schools to operate bilingual education programs that met local needs and broad national guidelines.

Other than the symbolic value attached to the withdrawal of the Lau rules, the net effect of their recall was insignificant. After all: (1) they had never been approved, but had only been proposed; (2) half of the fourteen states mandating bilingual education had requirements that were more stringent than the proposed Lau rules; and (3) the 1975 Lau Remedies remained in force as guidelines.

21 Federal Role in Education Begins to Shrink

BILINGUAL ADVOCATES were having strong reservations about the extent to which the Lau Remedies or any other equity-related guidelines would be seriously heeded by school districts. Their cynicism was grounded on several realities, including the first-round defeat of the proposed Lau rules, the stated political philosophy of the incoming administration, and a well-timed "media hype" based on a somewhat slanted story about one or two Washington area school districts which had opted to concentrate on teaching English to LEP students rather than taking the bilingual route—and had found their approach effective.

THE FAIRFAX STORY

One of the first school districts to be cited for noncompliance with Lau requirements had been Fairfax County in suburban Virginia, the nation's tenth largest school system. It had been cited by OCR in February 1976 based on 1975 data showing it had 2,367 non-native speakers of English (representing 21 language groups), 544 of whom were LEP. Only 425 were receiving services to help them in school.

OCR lifted the citation in December 1980 saying that the district had successfully addressed the needs of LEP students over the four years of negotiation with OCR. OCR's approval letter reflected that the district now had six thousand non-native English speakers in 1980 (representing fifty language groups) and services were being provided to all of the 2,700 students identified as LEP.

While the diversity of the student population of Fairfax County was rather unique, due to the district's proximity to the nation's capital, what made this situation a *cause célèbre* was the fact that no bilingual education was employed in the program. Instead, Fairfax opted for a high quality English as a Second Language program reinforced by a comprehensive array of ancillary services and a top-level staff. A similar approach involving intensive instruction in English language skills was adopted by Montgomery County, VA, another major suburb of the District of Columbia, which probably

had more children of foreign diplomats enrolled in its schools than any other district in the nation.

As could be expected, the mass media played up the fact that these districts had spurned the bilingual concept and had achieved miraculous success with a simple English language immersion program. This somewhat misleading reporting caused a great deal of excitement among those who "knew there was something wrong with bilingual education" but could not quite put their fingers on it.

Speaking extemporaneously, President Ronald Reagan strongly criticized government programs that encouraged bilingual education, calling them misguided attempts to preserve immigrants' native languages instead of helping them learn English. In a speech to the National League of Cities in March 1981, the President cited the Washington suburb as an example of a Federal program setting unrealistic standards for local communities.

"In Fairfax County, Virginia, for example, students come from fifty different language backgrounds, fifteen of which are spoken by more than twenty students," Mr. Reagan said. "Were it able to follow the formal HHS (Health and Human Services) guidelines, the county would incur the expense of sponsoring bilingual programs in fifteen languages, including Urdu, Hindi, and Laotian."[392]

Then, departing from his prepared text, the President added, "Now, bilingual education, there is a need, but there is also a purpose that has been distorted again at the Federal level. Where there are predominantly students speaking a foreign language at home, coming to school and being taught English, and they fall behind or are unable to keep up in some subjects because of the lack of knowledge of the language, I think it is proper that we have teachers equipped who can get at them in their own language and understand why it is they don't get the answer to the problem and help them in that way. But it is absolutely wrong," he concluded, "and against American concepts to have a bilingual education program that is now openly, admittedly dedicated to preserving their native language and never getting them adequate in English so they can go out into the job market and participate."

What the press did not report was that Fairfax was budgeting $2 million exclusively for the ESL program and additional expenditures averaged $750 per LEP pupil above and beyond the district's average per pupil expenditure of $2,696. All in all, it spent in excess of $3,000 per LEP student. Pupil-teacher ratio averaged twelve to one. An instructional staff of 110—half of them bilingual—were assigned to the program. (There had been twelve in 1975.) Sixteen hundred LEP students had participated in a tuition-free summer program in the 1979-80 school year. The program had been staffed by forty teachers in addition to the regular summer school cadre. Notices to parents were sent in the parents' language. The district was using a well-coordinated, centralized registration procedure that enabled it to identify and assess potential LEP students within 48 hours. The district provided intensive instruction in under-

standing, speaking, reading, and writing English. Periods of instruction varied from a minimum of 45 minutes to a full day, depending on the child's need. One-on-one tutoring was also provided as necessary. Most importantly, there was close coordination between English instructors and regular classroom teachers to ensure their curricula meshed.

If Fairfax proved anything, it proved that, in the final analysis, LEP children can be taught either bilingually or monolingually—as long as they are taught *well*. Yet, it cannot be denied that the Fairfax story—not the Fairfax program, but the story—was very damaging to the bilingual education movement. It hurt because most of the press corps editorialized on selected aspects of the Fairfax program. And it hurt because the story broke about the time of the Lau controversy and other negative developments surrounding bilingual education.

WEAK OCR ENFORCEMENT

Most media reports implied that Fairfax had simply defied the Office for Civil Rights and that OCR had simply acquiesced. Given the shift in national policy, those stories seemed plausible. The notion of a retreating OCR was undoubtedly comforting to many school districts which were being monitored by the agency or had been on the borderline of compliance. However, the very idea was alarming to advocates of LEP children. Although they had long deplored the reactive approach of OCR—and had continuously urged the agency to assume a more aggressive, proactive role—bilingual activists understood too well that low key enforcement was better than no enforcement at all.

HEW's Office for Civil Rights was seemingly caught in the crossfire between civil rights advocates and school districts on the issue of what services schools were legally obligated to provide national origin minority children whose ability to speak English was limited. On one hand, a number of school districts complained that OCR's regional offices exceeded their boundaries by trying to force specific approaches to bilingual education on school authorities. Claiming to speak for numerous school districts, the National School Boards Association said OCR's regional offices were already misusing the Lau Remedies. NSBA said it had received complaints through its state branches that OCR's offices in Denver, Seattle, and Dallas had pressured districts to follow the Lau Remedies as though they were mandatory. Civil Rights groups, on the other hand, said OCR already placed a very low priority on Title VI enforcement for national origin minority children. In the region handled by OCR's Denver office, for example, no discrimination complaint had ever gotten as far as an administrative hearing.

Weak OCR enforcement of the Lau requirements—and of Title VI of the Civil Rights Act of 1964, in general—was often blamed for the continuing failure of LEP students in schools without adequate services. In essence, many people observed that OCR's "bark was

worse than its bite." Despite the agency's rhetoric about withholding Federal funds from districts in noncompliance and encouraging judicial support for the agency's rules and regulations, OCR enforcement was often cautious—almost apologetic. Not one district was ever deprived of Federal funding, in spite of ample evidence of noncompliance. And now there were reasons to suggest that OCR's value as a deterrent—however slight in the past—would decrease even further.

In a reversal of its previously-proposed plan—but in keeping with Bell's policy of noninterference with local control—OCR's final operating plan indicated the agency was cutting in half (to ten investigator years) the time it expected to spend monitoring compliance with Lau-type bilingual education programs in 1981. The proposed monitoring had been "an optimistic figure" that had to give way to a need for more investigator time for complaints, according to OCR. The fact was OCR was reducing the time it would spend on all its enforcement functions. This series of events—and its potential for a domino effect—prompted the creation of the American Coalition for Bilingual Education for the purpose of defending the cause of bilingual education using the political process.

THE NEW FEDERALISM

Bilingual advocates were deeply concerned about the Federal administration's unveiling of a new federalism, which would permit each state—possibly each individual school district—to set its own priorities. They felt that the Federal leadership had stimulated most of the progress they had experienced in the last two decades and were wary of backsliding to the "sink or swim" era of neglect if the Federal presence were removed.

The new federalism promised to drastically reduce expenditures for social services and to remove Federal control—and Federal responsibility—for several key government functions. A strong case—based on the U.S. Constitution—was being made for the removal of the Federal presence from education.

The Tenth Amendment (the last of the original Bill of Rights) stated that powers not delegated to the United States (Federal government) by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. The Constitution had made no mention of education, thus the duties to provide and regulate educational services were not in the realm of the Federal government, but belonged instead within the purview of each individual state. *To the extent that states delegated this authority,* it was extended to local educational agencies. (An exception to this policy was found on Indian reservations, where Native American children were the legal responsibility of the Federal government and were educated through the U.S. Bureau of Indian Affairs.)

One of the basic tenets of the new federalism was to transfer domestic programs from the nation's capital to the state and local levels of government. This would be done in part by relaxing enforce-

ment of Federal guidelines, deregulating formerly-mandated programs, and by consolidating the funding for previous categorical programs and allocating instead a block of money directly to SEAs and LEAs. By attaching no substantial regulatory conditions to these block grants, states were given more discretionary power with less Federal interference. Initially, the theory seemed appealing to local administrators. However, because of general cutbacks in Federal aid, the lump sum they would receive would be about 75 percent of the amount needed to continue all antecedent categorical programs. Because local institutions and agencies would have to assume many services previously provided directly by discontinued Federal programs, they would have to, in fact, do more with less.

Those who opposed the Federal presence in education pointed out that the Federal government was providing only eight percent of the education budget. Minority groups retorted that, left to their own discretion, local policymakers would not provide the equity services for which categorical grants had been paying. It was fairly obvious that State and local governments were already picking up cues from the national conservative trend that had begun in the late seventies. Acting on the assumption that OCR, the Department of Justice, and other Federal regulatory agencies were not likely to pursue earnest Civil Rights enforcement in the early eighties, many bureaucrats were conspicuously abandoning their compliance functions with regard to affirmative action, desegregation, and equal educational opportunity.

Needless to say, advocates of bilingual education were relieved when Secretary Bell announced that Title VII ESEA would be kept out of the grant consolidation process; a merciful decision, for most people agreed that given the low level of priority in which bilingual instruction was held in most local school systems and the lack of national origin minority representation on local boards of education, block grants were not likely to be used to fund bilingual programs.[393] Bilingual education was to remain a categorical program and continue to be administered from Washington, as in the past, as a mix of competitive and formula grants but, as all other programs, it would have its funds reduced by approximately one-fourth. This reprieve was critically important, particularly at a time when some State legislatures were trying to rescind or dilute bilingual laws that had been enacted during the seventies.

THE PENDULUM SWINGS BACK

California, which in 1976 had been the first state to adopt a really comprehensive bilingual education law, passed a new law in 1980 to speed the learning of English in bilingual classrooms. It stated the goal of bilingual education was to develop English language fluency. A key feature required school districts to set standards for determining when bilingual students should transfer to regular classrooms. As a result many districts were expected to move students out of bilingual classes earlier.

The compromise bill emerged from a bitter battle between Latino and Anglo legislators over charges that the State's bilingual program was weak on teaching English. But the bill also headed off a move to allow districts to abandon bilingual education altogether. This would be the first in a series of efforts in the 1980s to rescind or reduce the effectiveness of the State bilingual mandates that had been enacted during the 1970s. Bilingual education advocates in Illinois and New Jersey were able to fend off legislative assaults upon their states' bilingual laws.

Massachusetts, which had the distinction of having been the first state in the nation to mandate bilingual instruction, attempted in 1981 to make some drastic changes in its law. The amendment proposed to:

(1) reduce bilingual entitlement from three years to one;
(2) provide ESL-only services to LEP students—at the discretion of local school committees;
(3) give local school committees, rather than the SEA, the power to set class sizes and teacher-student ratios;
(4) void the rules and regulations that had been promulgated by the SEA.

Ironically, the Massachusetts legislature attempted to do this at the same time that two thousand bilingual educators from around the world were meeting in Boston for the Tenth Annual International Bilingual/Bicultural Education Conference sponsored by the National Association for Bilingual Education. When news of the proposed amendment spread throughout the conference, participants joined Massachusetts residents in a march to the State House to protest against the change. "No elimination of bilingual education," chanted the demonstrators—to the wonderment of Bostonian bystanders—as they walked from the conference site to the State's capitol.

After a brief rally on the Boston Common, they entered the State House and trudged through the halls talking to anyone who would listen, and pleading—literally pleading—for support of bilingual education. The Massachusetts law was salvaged that year, but bilingual advocates in Colorado were not as lucky.

The Colorado State bilingual requirement was replaced in 1981 by an English Language Proficiency Act, which did not specify what kind of program school districts should offer linguistically different students. Yet, it was later found that only fourteen of the 41 Colorado school districts that had offered bilingual programs during the 1980-81 school year had discontinued them in 1981-82. These districts had changed to a tutorial approach in which students were usually removed from the regular classroom setting for thirty to sixty minutes daily for ESL programs.[394]

Another policy reversal occurred in officially-bilingual Dade County, where voters approved 3-2 a 1980 referendum declaring English their only official language and forbidding the expenditure

of public funds to promote bilingualism. Some political observers believed at least part of the backlash may have been a reaction against the seemingly never-ending waves of refugees entering this country—legally or otherwise. Concessions to bilingualism were not temporary adjustments for the duration of a crisis, they noted, they were indeed permanent, unwanted changes of the face of America.

22 Immigrant Language Issues Make Banner Headlines

THE 1980 MARIEL SEALIFT had brought the total number of Cubans in the United States to one million, half of whom still resided in Dade County—in and around Miami. Two of every five residents of Dade County were Hispanic. A great deal of controversy surrounded the latest Cuban arrivals, however. They appeared to be the antithesis of the original anti-Castro exiles who had come from the political, executive, managerial, business, or other professional fields—and were more likely to be older, White, politically-conservative, and upper class.

Conversely, "Marielitos" were collectively younger, more likely to be Black, poorly-educated, and from a lower socioeconomic class. Most had been blue collar workers, some had come directly from jails or hospitals, and all had lived under a Communist regime practically all their lives. In the years following their arrival in the United States, these Cubans were often blamed for increased crime, unsanitary conditions, and community unrest. In 1981, Miami was listed by the FBI as the most crime-ridden city in the U.S.—although most of it was organized crime.

That year, the U.S. State Department issued the last visa rectifying eight years of illegal denial of permanent status to Western Hemisphere aliens. Some seventy thousand additional resident aliens, to whom "Silva" letters (a "promisory" note safeguarding their provisional status until it could become permanent) had been awarded, were informed that their stay in the United States had ended. This caused an ugly dilemma for most of these people, many of whom had children who had been born here and were, thus, U.S. citizens. The U.S. government was either forcing deported parents to abandon their children or, in essence, expelling twenty thousand American youngsters.

QUANTITATIVE AND QUALITATIVE CONTROLS OVER IMMIGRATION

The concern for unchecked immigration surfaced at the highest level of the Federal government. President Reagan himself stated that "neither the United States, nor any other nation can absorb all those who would come—whether to flee persecution or to seek

a better life." Other countries, he said, must bear their fair share of the responsibility. "There are limits to what this country can do alone," warned the President, "and these limits are reflected in our laws."

President Reagan asked the Attorney General to chair a Task Force on Immigration and Refugee Policy. The resulting bipartisan Select Commission concluded that the Cuban influx to Florida "brought home to most Americans the fact that United States immigration policy was out of control." While recognizing that immigrants greatly benefit the U.S., the Commission emphasized the need for enforcement of the nation's laws. As a result, the Attorney General was submitting to Congress (in behalf of the Administration) a legislative package based on eight principles designed to preserve the nation's tradition of accepting foreigners to its shores—but in a controlled and orderly fashion.

1. We shall continue America's tradition as a land which welcomes peoples from other countries. We shall also, with other countries, continue to do our fair share of resettling those who flee oppression.
2. At the same time, we must assure adequate legal authority to establish control over immigration: to help prevent sudden large influxes of aliens, to improve our border control, to expedite (consistent with fair procedures and our Constitution) return of those coming here illegally, to strengthen enforcement of our fair labor standards and laws, and to penalize those who would knowlingly encourage violation of our laws.
3. Those who have become productive members of our society and have established equities in the United States should be recognized and accorded full protection of the law. At the same time, in so doing, we must not encourage illegal immigration.
4. We have a special relationship with our closest neighbors, Canada and Mexico. In the spirit of a North American accord, our immigration policy should reflect this relationship.
5. We must also recognize that both the United States and Mexico have historically benefitted from Mexicans obtaining employment in the United States. A number of our States have special labor needs, and we should provide for these.
6. We shall strive to distribute fairly, among the various localities of this country, the impacts of our national immigration and refugee policy; and we shall improve the capability of those agencies of the Federal government which deal with these matters.
7. We shall seek new ways to integrate refugees into our society without nurturing their dependence on welfare.
8. Finally, we recognize that immigration and refugee problems require international solutions; we will seek greater international cooperation in the resettlement of refugees, and, in the Caribbean basin, international cooperation to assist accelerated economic development to reduce motivations for illegal immigration.[395]

The President's Select Commission called for one-time amnesty for most illegal aliens who were in the country prior to 1980, but the sixteen-member group also proposed fines for employers who knowingly hired illegal aliens. These sanctions were met with severe

opposition from the U.S. Commission on Civil Rights and from the nation's Hispanics, who felt that they would burden them with increased challenges of their citizenship, encourage unwarranted intrusions into private enterprises, and discourage employers from hiring anyone who "looked foreign" or spoke with an accent.[396]

Because of the proximity of Mexico and Cuba, it was believed that the majority of illegal aliens in the United States were Hispanic. But although generally not publicized, large numbers of illegal entrants from various countries were easily walking or driving into the U.S. by way of the Canadian border.

In the early eighties, increasing numbers of refugees fleeing from war-torn Central America were arriving in the U.S. Mainland. Many Central Americans as well as Cubans were also seeking refuge in other Latin American countries as well as in Puerto Rico. Refugees and other exiles from other parts of the world often emigrated to other countries in their own continents. Nevertheless, the United States was accepting twice as many expatriates as all other nations combined. In the seven years following the fall of Saigon to the Communists in 1975, for example, more than a million people fled Indochina. Approximately half of them came to the United States.

Local school districts, trying desperately to stretch their meager resources to provide an educational opportunity to the children of new immigrants, often turned to the Federal government for assistance. For, while education was admittedly a State responsibility, immigration policies and their enforcement (which permitted the influx of these unanticipated students) were clearly a Federal prerogative.

FISCAL AND JUDICIAL SUPPORT

Early in 1981 the Special Impact Aid Program for Refugees was established as part of the Education Amendments of 1980, to help districts with an influx of refugee children from Cambodia, Vietnam, Laos, Cuba, or Haiti. However, applicants for these various programs were warned to count refugee children only once to eschew duplicate funding. In fact, an amendment was introduced later to consolidate the Refugee Education Assistance Act with provisions from the Impact Aid Program, the 1976 Indochinese Refugee Children Assistance Act, and the Adult Education Act. The Consolidated Refugee Education Assistance Act would broaden these programs to include any legal refugee category. Another part was added to the Refugee Act of 1980 using regulations identical to the Transitional Program for Refugee Children except for the eligibility criterion. This part, under the discretionary authority of the Secretary of Education, provided educational services for Cuban and Haitian children who had entered the country after November 1, 1979. Appropriations language, however, stipulated that only states with more than ten thousand Cuban/Haitian refugee children could apply for the $6 million available. Only Florida was eligible.

With the impending elimination of most Federal assistance programs, more and more of the responsibilities of educating immigrant and migrant children were falling upon State and local educational agencies. This problem was exacerbated—from the school's viewpoint—by the fact that equity laws still required them to meet the special needs of these students. And the parents were using the judicial system to insure the rights of their children.

Idaho Migrant Council v. *Board of Education*, filed in 1979, alleged that large numbers of Latino children in Idaho who had trouble with English were not getting the education they needed. Of an estimated 35,000 Mexican-Americans in the State, seven to eight thousand were of school age. A trial court ruled initially that school districts should operate with relative autonomy and that the State had no obligation to enforce Title VI of the 1964 Civil Rights Act at the local level. The Ninth Circuit Court of Appeals reversed that decision, ruling that SEAs must make sure LEAs adequately educate children, and remanded the case to the local court to decide the issue of bilingual education.[397]

In another case testing the 1975 Lau Remedies, the Fifth U.S. Circuit Court of Appeals held in 1981 that the Lau guidelines were merely a suggested compliance plan for districts failing to provide any language assistance. Ruling in *Castañeda* v. *Pickard*, a 1978 case originating in Raymondville, TX, the Circuit Court said the fact that a school district provided a program which differed in some respects from the Lau Remedies was not in itself sufficient to rule that the program was unlawful. The court also held that to state a violation of Title VI required an allegation of the school district's intent to discriminate.[398]

Raymondville, which had a history of separate school building wings for Hispanics, had a student enrollment 88 percent Hispanic but a teaching staff that was just 27 percent Hispanic. White Anglo students were overrepresented by two and a half times their proportion in the K-8 high-ability group—an impermissible discrepancy in desegregating or recently-desegregated school systems.

The Appeals Court upheld the plaintiff's rights to challenge teacher hiring practices under the Equal Educational Opportunity Act of 1974 (EEOA74), which barred job discrimination as a denial of equal education rights. After finding that 1703(f) of EEOA74 did not require a showing of intent in order to state a violation under it, the Fifth Circuit established the standards to be followed by the trial courts when a program was challenged under this section of EEOA74.

The Circuit Court remanded the case to the District Court to determine whether Raymondville minority students had overcome the effects of past discrimination. The court also called upon the school district to administer achievement tests in Spanish to LEP students.

DISSENTING VOICES

The concept of bilingual education was receiving strong support where it really counted: in the courts. Unfortunately, the bilingual movement was also being tried in the media, and mass media was a powerful tool for shaping public opinion. Newspapers and magazines rarely featured successful bilingual programs but heralded in banner headlines and editorials every negative report or attack on bilingual education. Radio and television did likewise.

This is not intended as an indictment of the news media. Indeed, it was the unexpected—not routine—developments which constituted news. Thus when Black economist Thomas Sowell spoke out against the NAACP, affirmative action, and other areas of Civil Rights advocacy, that was sensational news and the press rightfully treated it as such. (Unfortunately, there were many who would believe that these isolated news items reflected the national tenor.)

Media did not report in any meaningful way that notable Hispanic celebrities—such as Rita Moreno, Fernando Lamas, Antonio Fargas, and Erik Estrada—had been strong, outspoken advocates for bilingual education. Instead, true to their nature, media featured the dissenting voices.

Perhaps the loudest discordant note was sounded by Richard Rodríguez, whose book *Hunger of Memory* supported the notion of separation of home and school. Rodríguez, whose personal story was itself a perfect argument for bilingual education, perceived society as consisting of two different worlds: one private, one public. One of the essential functions of the school, he observed, was to extract children from the bosom of their family, community, or ethnicity and to equip them with a voice (English) and a set of attitudes that would serve as the passport to the larger ambitions of the public world.

Advocates of bilingual instruction, ethnic studies, the legitimization of Black English, affirmative action, and Spanish ballots were missing the point, he reasoned, that education was a metamorphic process intended precisely to transform students from children to adults, from ethnics to Americans. Rodríguez saw Americanization as a worthy goal even at the cost of breaking away from one's culture—and parents.

Hunger of Memory was undoubtedly a very accurate portrayal of Richard Rodríguez' experiences and a very sincere philosophical analysis of American education. Yet his critics argued that Rodríguez' comments betrayed a poor grasp of the concept of bilingual education as well as a politically conservative (or naïve) attitude. By joining the ranks of the "I made it, why can't you" elite, Dr. Rodríguez added one more obstacle to the millions of Hispanics who were still struggling against prejudice, discrimination, and other unattractive aspects of American folklore.

The American press had a heyday with Rodríguez' book, as it did with the Fairfax report, but there were other developments that

would prove detrimental to the bilingual movement in 1981. It was a bad year for bilingual education in the United States.

THE BAKER/DE KANTER STUDY

As part of the evaluation of the proposed Lau Regulations, the White House Regulatory Analysis and Review Group requested an examination of the literature on the effectiveness of bilingual education, focusing on the two areas of priority of the Federal policy: better performance in (1) English and (2) nonlanguage subject areas.

More than three hundred documents were examined, but only 28 studies were found to meet the researchers' methodological criteria. Four basic instructional alternatives were identified in the review: submersion, structured immersion, ESL, and transitional bilingual education (TBE).

In September 1981, the Department of Education released a final draft report entitled, *Effectiveness of Bilingual Education: A Review of the Literature*, by Keith A. Baker and Adriana A. de Kanter. The report was a timely—albeit misrepresentative—commentary on the state of the art in bilingual education. Highlights of the conclusions of the study included:

1. Schools can improve the achievement level of language minority children through special programs.
2. The case for the effectiveness of TBE is so weak that exclusive reliance on this instructional method is clearly not justified. Too little is known about the problems of educating language minorities to prescribe a specific remedy at the Federal level. Therefore, while meeting civil rights guarantees, each school district should decide what type of special program is most appropriate for its own unique setting.
3. There is no justification for assuming that it is necessary to teach nonlanguage subjects in the child's native tongue in order for the language-minority child to make satisfactory progress in school. However, if nonlanguage subjects are to be taught in English, the curriculum must be structured differently from the way the curriculum is structured for monolingual English-speaking students.
4. Immersion programs, which involve structured curricula in English for both language and nonlanguage subject areas, show promising results and should be given more attention in program development.
5. The Title VII program for bilingual education must take steps to improve the quality of its program evaluations.

As with many reports of its kind, this one raised more questions that it answered. Clearly, the report did not fulfill the expectations raised by the title. This situation was compounded by the fact that although the report purported not to represent the official position of the Department of Education, it had the Federal stamp of approval

nonetheless and was used to publicly demean both the accomplishments and—of equal importance—the expectations of transitional bilingual education.[399] Critics of the report charged, among other things, that the selection of the 28 studies out of the three hundred reviewed—and the unnecessary exclusion of successful bilingual programs—made them suspect that the researchers had picked the studies most likely to support their own premises.

Around the same time the Baker/de Kanter study was released, Congress was pondering two bills that would have considerably stifled the bilingual education movement. One was proposed by Senators Walter Huddleston (D-KY) and James Abdnor (R-SD) to amend Title VII by:

(1) eliminating the provision that the student's native language be used in instruction;
(2) precluding the participation of LEP students who had some oral proficiency but little or no skills in reading and writing English;
(3) requiring that (generally) students be exited from Title VII programs within one year.

The other bill was developed by the administration and reflected its stated philosophy. Introduced by Sen. Samuel Ichyle Hayakawa (R-CA), its intent was basically to *broaden* the scope of bilingual education to include funding for other teaching methods and to *narrow* the definition of children eligible for bilingual training in elementary and secondary schools. Neither the Senate nor the House of Representatives acted on these bills in the 97th Congress.

Bowing to the political reality and societal pressures of the early eighties, advocates of bilingual education had all but given up the ideal of maintenance-type bilingual programs. They were at a low point in their movement, struggling to maintain a modicum of "survival" services for those children with the greatest needs. Yet, while one segment of the Federal legislature was earnestly trying to curtail the ability of some people in the United States to maintain their fluency in languages other than English, another segment of the same legislature was just as earnestly trying to enable American students to learn another language besides English.

FOREIGN LANGUAGE PROGRAMS

A plan to offer schools and colleges incentives to boost their foreign language instruction was introduced in 1981 by Rep. Paul Simon (D-IL), chairman of the House Postsecondary Education Subcommittee and member of President Carter's Commission on Foreign Languages and International Studies. However, the U.S. Education Department objected to the bill, not because of lack of merit, but because it constituted another categorical aid program, which the administration opposed. Education Secretary Terrell Bell, who called the lack of foreign language skills among American col-

lege graduates "a major national disgrace,"[400] explained his objection:

> While this department endorses efforts to strengthen foreign language capabilities of American students, we are opposed to the creation by this bill of a new grant-in-aid program and a per capita reimbursement scheme for this purpose. This bill would be inconsistent with our efforts and present policies to consolidate a system of categorical grant programs into block grants with discretion left at local levels. Furthermore, reimbursing colleges and universities would not offer sufficient incentives to improve foreign language instruction to the extent required to have a significant impact on the economy or national security. Instead, high schools and colleges should upgrade their standards simply by making competence in a language other than English a requirement for college graduation. The point here is that this is a local and State responsibility.

Bell suggested folding the foreign language funds into the bilingual education program, an idea that the legislators did not embrace. Although he supported bilingual education, Simon had concerns about tagging the bill onto something that was "in serious trouble." Even Rep. Millicent Fenwick (R-NJ), who had served on the President's Commission and had championed bilingualism, opposed the bill because it was another new program at a time when the administration was trying to reduce Federal programs. Eventually, the Post Secondary Education Subcommittee approved the bill unanimously.

Renewed interest in foreign and second language programs—including Latin and other classical languages—was blossoming across the United States in the early 1980s. Part of the reason was attributed to improved ways of teaching new languages as well as continued government assistance for it. Grants authorized under Title VI of NDEA were still available from the U.S. Department of Education to help train graduate students preparing to teach foreign languages and cultures in U.S. schools. Many states once again were introducing foreign language programs at the elementary school level. In fact, Connecticut was honored by the American Council on Teaching of Foreign Languages in 1981 for having nearly forty percent of its public school students—twice the national average—studying a foreign language. Spanish was the most popular language taught in Connecticut, followed by French, Italian and Latin; although German, Portuguese, Russian, Polish and modern Hebrew were also taught. Nationwide, the 1981 programs generally fell into one of the following five categories:

1. FLEX (foreign language experience) introduced children to the sounds and phrases of the second language and to that language's culture(s). It gave students an introduction to a second language, but did not have proficiency as a goal.
2. FLES (foreign language in the elementary schools) emphasized oral language skills supplemented by language text-

books. FLES programs led to limited conversational skills and some introduction to the culture of the target language group, but they did not usually lead to communicative competence because of limited hours of instruction each week.

3. Magnet school programs, running from one to three hours daily, taught the second language through content subjects. These programs developed different degrees of communicative competence, depending on their intensity.

4. Total immersion programs, as the name suggested, provided instruction in all subjects in the target language, including initial literacy. English reading and writing were delayed, usually until second grade. After several years in an immersion program, children could be proficient in all four language skills of the second language and conversant with its culture.

5. Although not a foreign language program, bilingual education was geared to developing proficiency in all aspects of two languages, both of which were used by children in their environment. The second language was used from one to three hours daily in all subject matter, and culture was an integral part of these programs. In fact, FLES or SLES (second language in the elementary schools) programs in 1981 had the advantage of access to bilingual education materials developed for the elementary school in both language and content subjects in a variety of languages. Reading and social studies materials used in bilingual education programs were a rich source of cultural information about minority language speakers in the United States. By using the resources and experience developed in more than ten years of bilingual education, these programs could help English-speaking children not only learn to communicate with and understand the outside world, but others in this country as well.[401]

Other advantages of the eighties included the innovative and practical uses built into foreign language curricula. For example, high school students in Texas could get foreign language credit for taking English, French, or Spanish Sign Language. Title VII was funding a bilingual/bicultural program for Franco-American hearing-impaired LEP students and their families. In 1982 the National Association for Foreign Student Affairs announced that universities and community groups were eligible for grants to develop projects that would enrich the stay of foreign students visiting the United States. Two million dollars was also available under Title III ESEA for an international understanding program intended to create public awareness of the actions, the cultures, and the people of other countries through teacher training and related material development. Under President Reagan's proposed rescissions, however, a fourth of that money would be eliminated.

23 Rights In Jeopardy

THE REVERSAL OF previous legal concessions, the removal of protective devises, the intensity of institutional challenges, the increasing pressure on performance standards, and the generally weak political status of linguistic minorities were combining quickly to create serious difficulties for their children in schools.

PROPOSED VOUCHER SYSTEM

As the Administration's policy shifted to permit a broader range of options for those wishing to disengage from government-sponsored services, it proposed a series of alternatives such as tuition tax credits and school vouchers as strategies that would foster healthy educational competition while protecting diversity. These were still government-supported, but with seemingly less regimentation and a great deal more latitude to pursue personal preferences; thus, institutional accountability would be supposedly negotiated on individualized bases instead of being regulated in a uniform manner by governmental quality control agencies.

Eighteen states had voucher referenda on their ballots in November 1981 and twenty voucher proposals had been introduced in the 97th Congress, although the only experience with vouchers in the United States had shown that choices had not been primarily guided by curriculum quality. Instead, parents had chosen schools mainly on the bases of noninstructional factors, such as the location, social class or ethnic composition of the school, and the consideration of keeping siblings together.

Many educational, civic, and political leaders felt that vouchers would be a disservice to minority group children. A voucher system, they argued, was fundamentally flawed because it incorrectly assumed that parents of disadvantaged students would be able to make informed choices about the quality of schools. Vouchers, they said, constituted empty promises. Unless minority parents had access to information about schools and the ability to digest that information, "vouchers would hurt minority school children more than they would help them," testified Dr. Michael Olivas, research director of the League of United Latin American Citizens' National Education Service Centers.

High income families usually subscribed to more periodicals, had a better knowledge of existing literature, and were more likely to use libraries than were poor families. Minority communities relied on highly informal communication networks, gaining most of

their information by word of mouth. Thus, a complex voucher plan was more likely to decrease participation by low-income families, as these oral information networks would have been inadequate to convey complicated data on school characteristics or parental prerogatives to organize and establish new schools. Those parents most likely to participate by receiving information and by possessing the skills or resources to secure skills would be advantaged parents. To suggest otherwise was to ignore the evidence and the experience of earlier voucher proposals, which had shown that Hispanics—collectively—lacked the time, the aggressiveness, and the familiarity with the complexities of the educational process to be able to do "comparison shopping" for the best educational options for their children. This is not to suggest that Hispanic parents could not have risen to a level of sophistication that would have enabled them to make the right choices—if the schools had taken the time and effort to provide them relevant training and timely information to assist them in their decision. That this important information would have reached all parents—especially national origin minorities—in a manner that they could understand it was rather doubtful.

LACK OF POLITICAL PARTICIPATION

This isolation from the mainstream of American society had not only kept Hispanics from having access to vital services and other resources, it had kept them from participating in the democratic process entirely. This had been one of the reasons why Hispanic civic leaders and Civil Rights activists in general had argued for bilingual ballots in the mid-seventies. And although many Americans had objected, the bilingual ballots were provided as part of the Voting Rights Act. In the early eighties, prior to the reauthorization of the Voting Rights Act, opponents of bilingual ballots renewed their efforts to rescind them.

One of the most powerful critics of the bilingual ballots was U.S. Sen. S.I. Hayakawa (R-CA) who argued that the U.S. naturalization process required an individual to read, write, and speak words in ordinary usage in English. "To vote, one must be a citizen, and presumably should be able to communicate in English," reasoned Hayakawa—obviously forgetting about Puerto Rico, where U.S. citizens had been voting in Spanish for 64 years.

Sen. Hayakawa, himself a naturalized U.S. citizen born in Canada of Japanese extraction, seemed extremely concerned by the trend toward bilingualism in the United States. In 1981, he proposed a constitutional amendment to prevent states from requiring schools to teach non-English-speaking students in their native language and to make English "the official language of the United States"—a gesture of little practical consequence.

In 1982, culminating a long, often bitter struggle between elected representatives and Civil Rights groups, President Reagan signed into law a 25 year extension of the Voting Rights Act. The

minority language provisions were left intact in the new legislation.

Lack of political participation had been a particularly critical problem with U.S. citizens of Hispanic ancestry. Hispanics were on the negative end of the scale of all the variables normally used by analysts (ethnicity, age, education, socioeconomic conditions) to determine the degree of political involvement that could be predicted for a given group of people. Election statistics showed that an average of 47 percent of the White Anglophone electorate usually turned out to vote compared to 37 percent of the Black Anglophones—but only 23 percent of the Hispanics. (In the 1980 presidential election, only an estimated thirty percent of some nine million Hispanics of voting age had gone to the polls, compared to fifty percent for Blacks and Whites.) Only 23 percent of those aged 18-24 normally voted compared to 59 percent of those 45-64. (The Hispanic population was collectively younger, thus fewer voted.) Only 35 percent of the high school graduates were said to vote, but 64 percent of the college graduates voted. (A lower proportion of Hispanics had college degrees so, again, voter turnout was much lighter for Hispanics.) Only about 37 percent of blue collar and service workers (which most Hispanics were) were reported to vote on the average, compared to 55 percent of the white collar workers.

In addition to these indicators, Hispanic voters were often intimidated by their own lack of proficiency with the issues, or by the fear of discrimination and embarrassment. (INS agents had been known to check on voters requesting bilingual ballots for the possibility of their being in the country illegally.) In some cases, Hispanics simply lacked interest because of unfamiliarity with local issues or candidates. (This was especially true in the case of Puerto Ricans, many of whom expected to return to the island some day and thus considered their stay in the Mainland to be temporary.)

Political observers in the early eighties were predicting that this situation would change rapidly because the new wave of migrants was much better educated than their predecessors and thus much more likely to get actively involved in politics. Very few in Puerto Rico were still specializing in agriculture since the sugar industry had collapsed. More were involved in technology. (Puerto Rico had been considered the pharmaceutical capital of the world.) More Puerto Ricans were graduating from college, more were professionals, more were bilingual. Just as other U.S. citizens did not limit their job hunting to their home state, modern day Puerto Ricans were not confining themselves to the island when seeking employment. Nearly half of the electrical engineering graduates from the University of Puerto Rico campus at Mayagüez in 1982 took their first job on the Mainland. One-fifth of the physicians graduating from the island's four medical schools were leaving to practice their profession in the States. And just as other Americans do not necessarily return to their home states once they have left, fewer Puerto Ricans were planning to return to the island if their first job venture did not work out. More would probably migrate from their port of entry to other states if they felt the need for a second change of ambiance.

This was evident in the early eighties when Puerto Rican migration was flowing toward the Mainland again—and increasing. The rate tripled from 11,000 one year to 33,000 the next.

At one point in the early eighties, Hispanics in the United States boasted one governor; eleven members of Congress (nine congressmen and two non-voting delegates); 47 mayors of cities with populations of more than thirty thousand (including San Antonio, Denver, Miami, Tampa, and Santa Fe); many judges at different levels of the judiciary; and members of State legislatures, cabinets, city councils, and state and local boards of education. The director of NIE was Hispanic, as were superintendents of major school systems—including New York City and Hartford.

In the past, Hispanics had served as U.S. commissioner of education, governor, U.S. senator, and presidents of boards of education in the nation's largest school districts (including New York City, Chicago, and Los Angeles.) One Hispanic, Joseph H. Rodriguez, had chaired the New Jersey State Board of Higher Education, the State Commission of Investigation, and the New Jersey Bar Association. In the early eighties, he was the New Jersey Public Advocate and Public Defender. Generally, these individuals—those appointed as well as those elected—achieved their statuses on their own merits and seldom on the political strength of their Hispanic constituencies.

Unable to affect the legislative process because of their own community's widespread political apathy, Hispanic civic leaders had turned instead to the judicial process and were fairly successful in using the law of the land not only to protect the civil rights of their constituents, but in forcing the nation to live up to its promise of freedom, justice, and equal protection. The courts, in fact, had affirmed that even the children of undocumented entrants had rights to equal protection under the law and, thus, rights to free schooling and equal educational opportunity. And, although this affirmation had been challenged by the State of Texas in a consolidated case which had originated in Tyler, the Appeals Court had reaffirmed the lower court ruling.

CONSTITUTION APPLIES ALSO TO ILLEGALS

In 1981, the U.S. Supreme Court was asked to untangle immigration law and set the scope of the Fourteenth Amendment as it applied to free public education for illegal alien children. Tyler's school board and Texas argued in their appeal brief that the Fifth U.S. Circuit Court of Appeals had misinterpreted the Fourteenth Amendment equal protection clause as it applied to undocumented children.

Texas debated the issue of "jurisdiction" both in terms of whether illegal entrants are within the jurisdiction of an unknowing or unwilling host nation and if so, which level of government—State or Federal—actually has jurisdiction over them. Thus, the justices had to not only consider the legality of the Texas law, but also the

broader issue of the applicability of the equal protection clause to persons who are physically, albeit illegally, within a State's jurisdiction.

The U.S. Justice Department changed its stance from opposition to no position on the Texas school law. The 1981 Federal government decided not to continue the Carter administration's consitutional attack on the Texas law because "education traditionally has been—and remains—primarily the province of the states rather than the Federal government." The Department of Justice filed a brief before the Supreme Court which asserted the Department's neutrality in the case.

Texas authorities denied the notion that the law was racially motivated. Just the opposite, they said, an increase of the State's disadvantaged population would be detrimental to those Mexicans who were in the country legally. The State was especially reluctant to attract new immigrants in the absence of any indication that Congress was willing to spend money on a problem caused by "Federal default." Lax immigration enforcement had left school systems and the State in a fiscal bind as they tried to allocate limited resources for education, Texas contended.

During the one and a half hour oral arguments the Supreme Court justices peppered the Texas attorneys with a barrage of sharp questions—questions of unusual intensity and range. The justices wanted to know whether fire protection could be denied to illegal aliens, found it inconsistent that Texas could defend an illegal alien school ban while it could not legally deny education to the children of convicts, compared illegal alien children with illegitimate children (who have no control over their status), and asked Texas if the State would rather have uneducated aliens.[402]

According to the Texas Association of School Boards, the free education ban in Texas was similar to many laws under which contiguous states refused to educate nonresidents—the difference was Texas had a thousand-mile border with Mexico. Other states, however, were already educating illegal aliens "because they are there," according to Peter Roos, counsel for the children. Thus the implications of a victory for illegal aliens in *Plyler* were likely to be exaggerated. Conversely, High Court sanction of the Texas tuition practice could stimulate other financially burdened states to enact similar measures—especially those likely to be ports of entry for undocumented entrants.

More than four million school-age children in Mexico were not being educated and would be drawn to Texas unless the State was allowed to bar undocumented aliens from attending schools free, an attorney for Texas told the U.S. Supreme Court. The prediction was a key element in the State's argument that Texas should be allowed to ban free schooling for alien children.

Reacting to news accounts of Texas' arguments at the High Court, the Mexican Secretariat of Education—which had been unbelievably quiet on the whole issue—released a statement calling Texas' claim "totally false and unfounded." Mexican children, the

message contended, would have no reason to come to the United States just to get an education, which was already available in their own country. The statement said Mexican workers generally crossed the border for better paying jobs (by Mexican standards), so a school law decision would not affect future emigration.

However, a Texas attorney noted that the number of illegal alien children in the border Brownsville district jumped from 182 before the prevailing court orders to more than 1,300 the following school year. It was "guestimated" that 11,000 illegal students were enrolled in Texas public schools in 1981 (about 0.4 percent). Mexico's economic growth had not kept up with its population growth, thus emigration—legal or otherwise—was providing a critical safety valve for the pressures of unemployment. On the northern side of the border these workers were a source of both cheap labor and internal revenue, thus helping the U.S. economy as well.

For his part, contradicting his State's basic argument in this case, Governor William Clements felt Texas could educate its illegal aliens without "serious problem." The Governor added, however, that Texas would still ask the Supreme Court to uphold the constitutionality of the 1975 statute which denied State aid for the education of undocumented alien children.

The U.S. Supreme Court did not uphold the Texas law. A divided High Court ruled by a 5-4 vote on June 15, 1982 that illegal aliens also have constitutional rights in the United States under the Fourteenth Amendment's provision that no state shall deprive any person within its jurisdiction of the equal protection of the laws.[403]

The words were deceptively simple, but their meaning was incredibly vast. The decision meant that, for the first time, (the estimated two million) undocumented workers in the United States had been declared to be "persons" under the Constitution and entitled to equal protection as stated in the Fourteeth Amendment. The justices made it clear, however, that the Federal government should share in the responsibility for educating these children, because lax labor policies encouraged their parents to enter the United States and stay.

Political leaders in Texas and the other states most likely to be affected by the *Plyer* v. *Doe* ruling wasted no time in looking for ways to get Federal funds to local school districts to help cover their costs in educating the undocumented children.

Recognizing that (1) the influx of aliens was likely to continue and to grow, (2) alien children constituted a financial burden because they required services that many schools were not geared to provide, and (3) Texas was one of the states most severely impacted by aliens—especially undocumented aliens—Rep. Eligio (Kika) de la Garza (D-TX) introduced a bill to assist school districts that enrolled legal and illegal alien students. Most of the districts that would have been eligible for the Alien Education Impact Aid of 1981 were located along the Texas-Mexico border. For his part, Sen. Jesse Helms (R-NC) introduced a plan to overturn the Supreme Court's ruling, but the Senate voted 64-35 to table the move.

In a sequel to *Plyler*, incidentally, the U.S. Supreme Court upheld another Texas law that authorized a school district to bar children who moved into the district (1) without their parents and (2) basically to get to education. Ironically, this case involved an American citizen of Mexican descent.[404]

Roberto Morales, born in the U.S. in 1968 to Mexican aliens who later could not re-enter the country, had moved to McAllen, TX in 1977 and tried to attend school while living with his older sister, Oralia Martinez. But a 1978 Texas law said students seeking tuition-free schooling and living apart from their parents or guardians had to prove their residency was "not for the primary purpose of attending the public free schools." (The youngster's sister was considered his custodian, not his legal guardian).

The Fifth U.S. Circuit Court of Appeals had supported that law in 1981 as a statement of the "ultimate universal test of residency: subjective intent." It was estimated that thousands of American citizens were born to Mexican nationals and other aliens who had been in the U.S. illegally or with temporary visas.

LAU REMEDIES WITHDRAWN

A new set of Lau rules to replace the six-year-old Remedies had been promised by the U.S. Department of Education in the beginning of 1981, when the Secretary of Education withdrew the rules that had been proposed in 1980. Instead, however, a year after the withdrawal of the proposed regulations the Department of Education quietly dropped the Lau Remedies as well. Department officials were now saying a school may use "any effective approach" to teaching those children, including "total immersion" in English.

Between four and five hundred school districts across the country, which had negotiated Lau plans with OCR, could now either continue implementing their programs if they were satisfied with them or negotiate new options with the Department of Education. The prospects looked bad for LEP students after the Education Department's general counsel, Daniel Oliver (former executive editor of the *National Review*), issued an internal memorandum saying the department and school districts had "no obligation to provide extra services" to non-English-speaking students unless the district had been found guilty of intentionally discriminating against them. He based his legal opinion on the Ninth U.S. Circuit Court of Appeals' 1973 ruling in the case that the Supreme Court overturned in its 1974 ruling.[405]

Removing the guidelines or the memorandum did not lessen the responsibility of schools to serve LEP children nor their liability for noncompliance, and should not have been taken as a rejection by the U.S. Department of Education of the concept of teaching children in a language they understand since Secretary Bell had publicly supported the need for bilingual education. On the other hand, the extrinsic value of the Lau Remedies could not be overestimated. Without a doubt, the withdrawal of the Lau Remedies was

a major blow to bilingual education and linguistic minorities in the United States. It was the only document around that attempted to define what a school district might do to provide services to children with little or no ability to speak or understand English. In recent years, the Remedies had attained a high symbolic value among advocates for Hispanics and other national origin groups because they amounted to an affirmation that the needs of language minority children had to be met.

Many bilingual educators and Civil Rights advocates were gravely concerned that withdrawal of the Lau Remedies, if followed by withdrawal of the HEW Memorandum, would be perceived by school administrators as a message that they could legally refuse to serve LEP students. That fear, while justifiable, was not legally grounded. The fact was the Lau Remedies simply suggested ways to comply with the *Lau* ruling. The ruling was the legal basis for the schools' obligation to provide services. Likewise, the 1970 HEW Memorandum had simply sought to remind schools of their responsibilities under the Civil Rights Act of 1964. The Act was, in and of itself, the legal mandate. Serious doubts remained, however, as to whether an already-singed OCR would in fact enforce the Act without the buttress that had been provided by the Lau Remedies.

In 1982, OCR was found guilty of failing to meet the court-imposed time frames in 97 percent of its compliance reviews. Some OCR officials admitted to deliberately disregarding the timelines so as not to antagonize the violators, but others decried what they termed an obsession with beating deadlines at the expense of the quality of the settlements. They said much of OCR's activity had focused on procedural rather than substantive matters. At one point, OCR officials found a way to reduce their backlog by rescheduling cases and categorizing them as "frontlog"—a meaningless distinction. In the 1982 ruling, the judge allowed the agency to establish new time frames for processing complaints. Although no new *compliance reviews* were to be conducted, OCR would *investigate* Lau-related *complaints* while completing previously-initiated reviews. The agency was also looking at states—particularly Texas and California—to determine the feasibility of formally sharing Title VI enforcement responsibilities.

U.S. V. TEXAS REVERSED

Because they were home to the largest populations of linguistic minorities in the U.S. these two states were especially important in the enforcement of the *national origin* aspect of Title VI, from which the HEW Memorandum—and subsequently the *Lau* ruling—had emanated. *Lau*, in fact, had originated in California. Texas, for its part, had been fighting a 1981 court order, issued by a Federal District judge in *U.S.* v. *Texas*, to implement a comprehensive, statewide bilingual education program. In 1982, the Fifth Circuit Court of Appeals overturned the lower court's decision, setting off another media blitz repudiating the bilingual movement. Again, the nation's

mass media played up the "newsy" aspect of the story: that the "massive bilingual program" ordered by Judge William W. Justice of Tyler, TX had been struck down on appeal. What the media did not report was that the Fifth Circuit's ruling had been influenced by a series of legal technicalities having relatively little to do with the substance of the original complaint, the merits of the lower court's decision, or the validity of the bilingual methodology as a remedy for LEP students.

Essentially, the three-judge appeals panel held that the case was underpinned with facts that were fundamentally flawed. For instance, data submitted in evidence were insufficient to support determinations of past practices of segregation. On the other hand, the Circuit Court gave weight to testimony given at the appeal to justify the Texas Education Agency's motive for holding back on bilingual instruction. TEA contended that total immersion in English was once believed to be the best way for LEP students to master English.

In conclusion, the higher court ruled that the facts of the case did not warrant the sweeping statewide order imposed by the lower court. The Appeals Court also felt the District Judge should have taken into consideration the effects that the Texas bilingual law enacted around the time of his ruling would have had upon his order. (TEA argued that the new law made the court order moot.) Thus, the Fifth Circuit Court suspended Judge Justice's order, but remanded the case to him for further deliberation.

In reversing the decision, the Appeals Court indicated that individual school districts impacted by Judge Justice's order (because it exceeded the imperatives of the State law) should have their day in court to argue for their specific needs and priorities, and be given the opportunity to offer alternatives or to show cause why they should be exempted altogether from the court order. Of course, this meant also that parents could likewise argue for more comprehensive bilingual programs at the local level.

However, the extent to which negotiations with school authorities at the local educational agencies would cause districts to reorder their priorities, modify their curricula, and tailor their staffing patterns to accommodate the learning styles and special needs of language minority students—and generally result in an equitable distribution of vital resources—would depend greatly on the degree of sophistication and political clout of the local community leaders and the parents of affected children. These dynamics would, naturally, vary from district to district.

BLOCK GRANTS

This checkered approach was one of the features of the new federalism. As part of both, his new federalism economic package and his plan to dismantle the newly-created Federal Department of Education. President Reagan began to consolidate educational programs into lump sum direct grants to SEAs and LEAs. The Presi-

dent's plan called for this to happen gradually, beginning with approximately 45 (more than a third) of the programs and increasing until most programs were lumped into block grants. Chapter 2 of the Education Consolidation and Improvement Act authorized block grants to SEAs and LEAs based on their numbers of school-age youngsters. But Chapter 2 block grants were not intended to support any specific categorical programs; the money could be used at the discretion of local policymakers. In a departure from past practice, there were to be no requirements for matching funds and no demands that Federal funds supplemented rather than supplanted local funding.

Proponents of Chapter 2 argued that the block grants would shift control of education policy away from the Federal government and back to State and local authorities where it constitutionally and historically belonged, and that the proposal would end the problems caused by too many accounting regulations that aided bureaucrats, not children. Opponents, on the other hand, feared that by dividing Federal financial aid in this manner, the funds would have less impact for needy children, there would be less supervision to ensure children's civil rights, programs to help children would compete for funds at the local level, and there would be no assurance that funds were available in targeted areas where needs for certain programs were the greatest.

Chapter 2 was creating serious equity problems because, while it sent larger sums of money to more small school districts, it was draining funds from large urban centers where most minority children—including LEP students—attended school. The bulk of the block grants was doled out to school districts based on their *number* of students, not on the *special needs* of these students.

In 1982, the first year of block grants, the U.S. Department of Education granted $440 million to the states under Chapter 2 ECIA. Only about five percent of all school districts were appropriating portions of their block grants to promote educational equity, civil rights, cultural diversity, and other human values related to underprivileged groups in American society.

Only six percent of all school districts were allocating any money to antecedent ESAA-type programs, for example. An average of $871 per district was appropriated for this purpose. Only five percent of the districts were funding desegregation training and advisory services (at an average of $94 per district). Only five percent of the districts were spending an average of $53 each for ethnic heritage studies. Only four percent were spending something to foster international understanding, but the average amount earmarked for this purpose was too small to be measured.[406]

Only a half dozen states were considering the needs of LEP students in the distribution of Chapter 2 money to LEAs. Florida had announced it intended to distribute 7.5 percent for foreign language instruction. Rhode Island led the rest with six percent of its block grants allocated on the basis of LEP children. California, Iowa, Texas, and Washington each allocated five percent on that

basis. Oregon allocated 2.5 percent.[407] While districts were earmarking about seven percent of their future block funding for purposes that could be related to equity, none of it was for bilingual education or other programs associated with LEP students.

This was terribly important in view of the ongoing reductions or elimination of Federal categorical funds and in light of the higher standards that states everywhere were setting for high school graduation. More importantly, fewer and fewer states were waiving these requirements, even for students with special problems or those with a history of educational inequity.

MINIMUM COMPETENCY TESTS

By 1982, twelve of the 28 school districts comprising the Council of the Great City Schools were requiring their students to take minimum competency tests in order to graduate—and that number was increasing. Some districts exempted LEP students from the tests; but in most cases, LEP youngsters had to pass the test in English as a graduation requirement. Exceptions to this were found in New York City and Buffalo, which were giving New York State's mathematics minimum competency test in 22 languages. New York City was allowing writing samples to be taken in a student's native language. Portland, OR was the only other school district planning to translate its math tests into other languages.

New Jersey proposed in 1983 that any LEP student entering the State's school system before the eighth grade would have to take a graduation test in English as well as a language proficiency test (LPT). A student entering the system after eighth grade could be exempted from the graduation test, but would have to pass the LPT.

Minimum competency tests made a great deal of sense. The graduation of illiterate youngsters incapable of filling out a simple job application had been a national disgrace and a source of profound embarrassment for the nation's schools for a long time. However, given the value of a high school diploma as an admission ticket to either higher education or the job market, minimum competency tests were terribly unfair to students who had not enjoyed the benefit of equal educational opportunity. In Massachusetts, for example, Black and Hispanic students had about half as much chance as White Anglophone students to pass basic skills competency tests developed by local school districts.

In 1981, the Fifth Circuit Court of Appeals had upheld the trial court's decision in *Debra P.*, which postponed the use of competency testing as a condition for receiving high school diplomas until all students who had been exposed to segregated schooling and other discriminatory practices were out of school. But in 1983 the Appeals Court permitted Florida for the first time to withhold diplomas from high school seniors for failing an "exit test." That decision exerted a powerful influence toward the formulation of similar conditions for graduation in other places. At least 37 states were requiring minimum competency examinations.

24 *Epilogue*

A MEMORANDUM sent by the Academy for Education Development to Education Secretary Terrel Bell in 1982 said that high-quality bilingual programs "should be supported by all Americans who care about the future strength and welfare of our nation." The memorandum argued that "participation of all kinds of students in bilingual education programs is a way for the worlds of foreign language instruction, bilingual education, and education for international understanding to come together as part of a general improvement in American education."

The memorandum also sought to dispel the "pernicious and pervasive" myth that "bilingual education serves only to develop non-English skills of minority children and does not ensure competence in English... Programs must emphasize the importance of competence in *both* English *and* other languages if they are to be effective in the national quest for language competence."

The memo went on to criticize the "this far and no farther" characteristics of transitional bilingual education programs. "This attitude might be sensible if our public policy were to enforce ignorance of foreign languages as a basis for national unity, but from the point of view of a language-competent America, it is foolish." It suggested that even maintenance programs do not go far enough, that the non-English language skills students bring to school need to be developed as well. Consistent with that view, the memo recommended that bilingual programs be expanded to include English-dominant students also. This position was supported by the Edward W. Hazen Foundation, which funded the conference where the position paper was developed.

Obviously, many prestigious organizations and individuals—two-thirds of a nationwide sample surveyed by Columbia University—believed bilingual instruction was a sound educational approach. It made sense, they argued, not only to teach in a language in which students could function but also to match teaching styles to the learning styles of students; bearing in mind that the needs of the learner should take precedence over the needs of the teacher, thus teaching was subordinate to learning. They suggested using the learners' strengths to teach them instead of using their weaknesses to alibi non-education.

The bilingual methodology, its advocates insisted, was both philosophical and practical; it was at once sound in theory and workable in fact; it yielded positive learning results in both the cognitive and the affective domains; it could be a vehicle toward

equal educational opportunity; it was, in fact, in the national interest. Supporters of bilingual education proposed it as a more humane and enriched school experience for children of limited English proficiency. Its strengths were psychological as well as linguistic, they said, for it provided a means toward the development of a harmonious and positive self-image.

Critics of bilingual education usually did not dispute any of these claims, but they seemed interested in one single criterion: the program's effectiveness in teaching English quickly. If English proficiency was not being achieved in a hurry, many education policymakers felt the program was a disservice to the children involved. A report by the Twentieth Century Fund Task Force on Federal Educational Policy said that bilingual education perpetuated discrimination and urged the Federal government to support English immersion programs for LEP students. Some bilingual educators cautioned that immersion (often labeled the "sink or swim" approach) could lead to "drowning"—and often did.

But, by and large, most bilingual program specialists had no quarrels with whatever methodology was used to teach ESL, as long as the children's education did not have to be postponed until they became proficient in English. If a particular ESL approach proved dysfunctional, most educational leaders agreed that revisions would be in order. Instead, however, critics were ready and eager to scrap the entire concept.

AS GENERAL EDUCATION GOES . . . SO GOES BILINGUAL INSTRUCTION

A more tempered philosophical approach was used in other aspects of educational reform. A one and a half year study by the National Commission on Excellence in Education, a blue ribbon panel appointed by Secretary Bell, warned that the educational foundations of American society were being eroded by a rising tide of mediocrity that threatened the nation's future. In confirming what the parents and advocates of minority children had been saying for more than 25 years—that their children were receiving an inadequate education dispensed by indifferent school systems—the Commission's report concluded that if an unfriendly foreign power had attempted to impose upon Americans the mediocre educational performance that existed in the United States, "we might well have viewed it as an act of war."[408]

The panel offered specific recommendations for elevating the quality of American education to the level necessary to maintain the nation in a position of global leadership. Naturally, none of the recommendations suggested discarding the whole idea of providing a formal educational experience for America's youngsters. Indeed, not even the most audacious would have expected such a drastic measure to be seriously considered.

Bilingual education advocates were asking for the same logical consideration. It would stand to reason, they argued, that if a particular bilingual project was not producing the desired results, re-

sponsible—and caring—administrators and policymakers would look for specific programmatic flaws and proceed to correct them, rather than resort to the bureaucratic equivalent of euthanasia. Problems in bilingual education could result from ill-designed and/or poorly-implemented programs, budgetary starvation, unqualified or inexperienced personnel, overextended staff, inadequate materials, poor leadership, lax monitoring, missing accountability, token parental involvement, hostile attitudes, poor image, low priority status, general lack of support, or a dozen other valid reasons. Any one of these variables could hurt a program; in combination, they could be lethal.

Thomas Carter of the University of California at Sacramento studied three effective bilingual schools in California with large populations of children of Mexican descent, using school achievement as the principal criterion for judging "success." He found that effective bilingual schools had many of the characteristics of effective schools in general: school environments were safe, leadership was positive and often informal, academic goals were stronger, and progress toward these goals was monitored regularly.

However, staff at effective bilingual schools had some characteristics that had not been commonly discussed in the literature on other schools:

- Only two percent of the staff accepted any aspect of the notion that deprivation limited student learning.
- Most staff understood what living in poverty meant in the lives of children and adults.
- The staff demonstrated a high sense of professionalism and believed that what they did made a difference.
- The staff understood that school improvement was not an event but a process of working together.

Dr. Carter suggested that providing more consistent support services would facilitate school improvement. He referred to the "change agent" literature and suggested that technical assistance be provided in the context of the local culture. Such help would be effective if it were directed to a need and if new solutions were adequately presented, showed more promise of reward than previous practices, and could be taught.[409]

In addition to legitimizing the complaints of most low-income families regarding the mission of education, the Commission on Excellence also supported them in another area. While agreeing that State and local officials have the *primary* responsibility for financing and governing the schools, the Commission recommended that the Federal government help meet the needs of key groups of students, such as the socioeconomically disadvantaged and language minorities, among others. One of the weaknesses of American education cited by the Commission was foreign language incompetence. Since achieving proficiency in a foreign language ordinarily required from four to six years, the Commission recommended that foreign language study be started in the elementary grades.

NEED FOR LANGUAGE POLICY

Around the same time the Commission's report was issued, The College Board was emphasizing the importance of students having familiarity with a foreign language in addition to mastering basic skills. The widely-respected Board said all college-bound students should be able to—at least—hold a simple conversation in a foreign language. These recommendations were in complete agreement with The Paideia Proposal, which stated:

> In addition to competence in the use of English as everyone's primary language, basic schooling should confer a certain degree of facility in the use of a second language, open to elective choice.[410]

It hardly made sense to advocate for everyone in the United States having a second language and not to see the logic of helping those who were already able to function in another language to keep and to develop that ability. Most people agreed that a clear language policy for the United States was urgently needed, but they disagreed on what the policy should be. Uniformists believed it should call for English as the *only* language of the United States, and insisted that everyone should adhere to that policy. Pluralists pointed out that when other countries—in efforts to "unify"—insisted that all their citizens conform to a single national cultural standard, the results had led to civil wars, revolutions, or mass emigration. They added that to preach democracy our way or no way was not only arrogant, but an absurd contradiction of terms.

Pluralists proposed instead a policy by which all Americans would speak English as well as other languages of their choice. Toward this goal of multiple language competence, advocates saw the role of bilingual education as both a vehicle to meet the English-language-training needs of language-minority children, and as a possible means of teaching English-language-background children a second language.

Regardless of which policy were to be adopted, if bilingual instruction were accepted as a viable approach for educating a significant segment of the school population, it should be made an integral and permanent part of the school system. It needs to interact particularly with foreign language, vocational, and special education as well as other curricular areas. It cannot survive long as an adjunct program which bears close resemblance to makeshift measures intended to meet only transient needs. Neither can it survive as a "special" program for a minority group. It desperately needs the support of the wider community as part and parcel of the total educational system.

Obviously then, those concerned with educational equity for national origin linguistic minorities cannot limit themselves to curriculum development, classroom management, and other pedagogical considerations. They must seriously consider the impact that these programs will have upon the educational process and the rest of society and, vice versa, the implications of the prevailing societal attitudes and political climate upon the programs.

POPULATION PROJECTIONS

If the history of bilingual education in the United States is an indication of its role in the nation's future, it is unlikely that bilingual instruction will disappear from the American scene. Demographers were projecting that the non-English language background (NELB) population in the United States would increase from thirty million in the early 1980s to forty million by the year 2000. The Spanish-speaking alone were expected to account for nearly half of that total, with the highest concentrations remaining in California, Texas, and the New York City metropolitan area.

The number of LEP children was estimated to increase by nearly one million by the turn of the century. Almost all was expected to be Hispanic. Hispanics were, in fact, expected to surpass Blacks as the nation's largest minority group during the first or second decade of the 21st century. Statisticians were predicting that Hispanics will total 47 million by then, compared to 44 million Blacks.

As this book was being written, Hispanics were collectively the youngest of the three major groups in the U.S., they were having the most births per capita, and they accounted for the largest share of immigration. The Hispanic median age was 23, compared to 25 for Blacks and 31.5 for White Anglos. There were an average of 2.5 births per each Hispanic woman compared to 1.8 for other women. In addition, Latin Americans had constituted approximately forty percent of the immigration since 1960—not counting illegal immigration.

The emergence of Hispanics as the dominant minority was expected to result in dramatic changes in the way Americans see themselves, what they eat, the television programs they watch—possibly even the language they will speak. More TV shows will deal with Hispanic experiences, will feature Hispanic performers, will be produced by Hispanics and will be closed-captioned in Spanish. The nation will see an increased importance of Hispanic holidays and of bilingualism. While the assimilation of Hispanics into the American society is inevitable, their culture will survive whether they want it to or not. Educational planners, obviously, will need to find ways to meet the bilingual education needs of this growing Hispanic clientele.

However, the numbers of NELB and LEP Hispanics should not mask the needs of other groups. The very high LEP rates among smaller groups, such as Vietnamese, Navajo, and Yiddish, must also be considered by educators in geographic areas where these groups are concentrated.

An important caveat is in order: just as past projections could not forsee and take into account phenomena that later affected geographic concentrations of LEPs in untold ways, such as the increasing Cambodian refugee influx, the massive Cuban sealift operation, the determination of Haitians to escape an oppressive regime, or the unanticipated groups of exiles from Central America, current projections could not possibly predict unexpected developments in immigration which would certainly affect the future NELB

composition in the U.S. Demographers could not address the question of illegal immigration of undocumented aliens, because their numbers and their rate of flow into and out of the United States have been indeterminate. Neither could they predict what would happen with Puerto Rico, as the island debates whether it should become the 51st State of the Union.

Projections for the 21st Century of LEP Children Ages 5-14 by Language Group[411]

Language	*Year 2000*	*Language*	*Year 2000*
Spanish	2,630,000	Navajo	28,100
Italian	109,600	Polish	27,700
French	102,900	Portuguese	27,500
German	102,600	Yiddish	26,000
Filipino	38,300	Japanese	15,300
Chinese	36,200	Korean	14,100
Greek	30,600	Other LEP	162,700
Vietnamese	28,700	Total	3,400,000

TWO WORLDS

This, in fact, is one of the problems encountered in the process of recording history. No sooner do the printed words appear on paper than new developments occur which change the course of the historical account the author is attempting to capture. The history of bilingual education had not ended at the time this book was "put to bed." Even as you read this, events have probably occurred which might have altered some of the information given here. It is left up to the reader to continue—of you are so inclined—to trace the dynamics affecting the evolution of bilingual education in the United States.

The Bilingual Education Act (Title VII ESEA) was due to expire in May 1984. The main concern as this book goes to press is not whether Title VII would be reauthorized, but rather that the concept of bilingual education would be adulterated beyond recognition. In 1983 the Department of Education sent to Congress a new set of legislative amendments to the Act, which included most of the provisions encompassed in the Administration's previous bill. It proposed the elimination of native language instruction and allowed the Department to fund whatever educational approach a school district believed warranted, so long as the approach was designed to meet the special educational needs of LEP students and could be justified as appropriate by the school district. No one knows for certain at this point in time what will be the fate of Title VII in particular or bilingual education in general.

One parting thought may be appropriate. Americans demonstrate an extraordinarily unselfish generosity toward the people of other nations—even those they have defeated in war—but demon-

strate inordinate intolerance toward these same people when they become part of America. Ironically, they subject the newcomers to the same indignities, even the same pejoratives, that were hurled at their own ancestors.

Immigrants come to the United States for a variety of reasons with one commonality: to somehow improve their lot (which will, concomitantly, improve America). These reasons may be economic, political, or personal. They may come to be with relatives and dear ones who reside in the U.S. In the vast majority of cases, the single push factor that caused their emigration does not necessarily mean that their homeland is a total zero and has nothing whatsoever worth preserving. There are relatives and friends with whom they desperately need to keep in touch, there are precious memories, lifestyles, food, clothing, songs, prayers, culture, and language. Must they be completely stripped of their valuable heritage as a condition toward the fulfillment of their aspirations for a better life or will they be as fortunate as to be able to choose the best of both worlds.

FOOTNOTES

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ADDENDUM

This is an update on the information provided in The Best of Two Worlds regarding graduation requirements. On page 261, after the second paragraph of the subchapter entitled "Minimum Competency Tests," add:

> On March 7, 1984 the New Jersey State Board of Education formally adopted high school graduation standards for LEP students. To earn a State-endorsed diploma, all students -- including those who are LEP -- entering the State's schools prior to the ninth grade are required to meet full graduation standards, including a statewide test administered in English during the ninth grade.
>
> Students who are unable to pass the graduation test in ninth grade are given the opportunity to take it again in the tenth grade and -- if necessary -- the eleventh grade. Students who fail the test in the eleventh grade -- but satisfy all attendance, credit hours, curricular, and local requirements -- may have the opportunity in the twelfth grade to undergo a Special Review Assessment (which ascertains the same academic skills measured by the statewide ninth grade test) in English.
>
> LEP students who enter New Jersey schools after the ninth grade and are unable to pass the graduation test by the eleventh grade may -- if they satisfy all other graduation requirements -- undergo the Special Review Assessment partially or entirely in their native language as necessary and appropriate. However, they still have to demonstrate fluency in the English language to receive a diploma.